

**TITLE 53
SOCIAL SECURITY AND
PRIOR-SERVICE BENEFITS**

**SUBTITLE I
TT SOCIAL SECURITY**

CHAPTERS

- 1 General Provisions (§§ 101-106)**
- 2 Social Security Board (§§ 201-208)**
- 3 Coverage and Benefits (§§ 301-313)**
- 4 Contributions (§§ 401-405)**
- 5 Retirement Fund (§§ 501-505)**

Editor's note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this TT Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

**SUBTITLE II
FSM SOCIAL SECURITY**

CHAPTERS

- 6 General Provisions (§§ 601-07)**
- 7 Social Security Board and Administration (§§ 701-08)**
- 8 Coverage and Benefits (§§ 801-11)**
- 9 Contributions (§§ 901-04)**
- 10 Retirement Fund (§§ 1001-06)**
- 11 Transitional Provisions (§§ 1101-10)**

Editor's note: The designation "subtitle I" has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, "Federated States of Micronesia Social Security Act," as subtitle II. Accordingly, "this title," as it appears in chapters 1 through 5, should be read "this subtitle."

**SUBTITLE I
TRUST TERRITORY SOCIAL SECURITY**

**CHAPTER 1
General Provisions**

SECTIONS

- § 101. Short title.**
- § 102. Declaration of policy.**
- § 103. Definitions.**
- § 104. Susceptibility of benefits, contributions, and funds to legal process or assignment.**
- § 105. Violations—Penalties.**
- § 106. Budget for and appropriation of costs and administration.**

Editor’s note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation “subtitle I” has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, “Federated States of Micronesia Social Security Act,” as subtitle II. Accordingly, “this title,” as it appears in chapters 1 through 5, should be read “this subtitle.”

§ 101. Short title.

This subtitle is known and may be cited as the “Trust Territory Social Security Act.”

Source: COM PL 3-40 § 1; TT Code 1970, 73 TTC 1; TT Code 1980, 73 TTC 1.

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title. See also Secretarial Order No. 3039 § 6, as amended.

§ 102. Declaration of policy.

(1) The purpose of this subtitle is to effect economy and efficiency in the fields of Government and business by providing a means whereby employees may be ensured a measure of security in their old age and given an opportunity for leisure without hardship and complete loss of income.

(2) Further, to provide survivors’ insurance for wage earners and their dependents and to provide supplemental pension benefits for Government employees who have spent many years in Government service without an opportunity to obtain benefits under a pension system.

Source: COM PL 3-40 § 2; TT Code 1970, 73 TTC 2; TT Code 1980, 73 TTC 2.

§ 103. Definitions.

In this subtitle, unless the context otherwise requires, the following definitions apply:

(1) “Agricultural labor” includes all service performed on a farm in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, or improvement of such farm and its tools and equipment, or in the production or harvesting of any commodity and its preparation for market. “Farm” includes stock, dairy, poultry, fruit orchards, and

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

truck garden farms, plantations, ranches, nurseries, greenhouses, or similar structures used for raising agricultural or horticultural commodities.

(2) “Became disabled” means the first month in which an individual is under a disability and is both fully and currently insured.

(3) “Board” means the Trust Territory Social Security Board provided for by chapter 2 of this subtitle.

(4) “Contributions” means the tax imposed upon income of covered employees and the tax imposed upon employers on account of wages paid to a covered employee.

(5) “Disability” means inability to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(6) “Earnings test” means that an individual who receives a retirement or survivor’s pension and who works in covered or noncovered employment shall have his quarterly benefit reduced by one dollar for each two dollars earned in a quarter, except there shall be no reduction for the first \$300 earned in a quarter. The reduction shall be applied in the subsequent two quarters immediately after the quarter in which the earnings were made.

(7) “Employee” means:

(a) any officer of a corporation; or

(b) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(c) any self-employed person who has at least one employee for whom he is required to report in a given quarter; or

(d) any self-employed person who had more than \$10,000 of annual gross revenue in the preceding calendar year.

(8) “Employment” means any service by an employee for the Trust Territory employer employing him, irrespective of where such employment shall be performed, except family employment.

(9) “Family employment” means employment of a worker by a member of his household, his parent, or his son or daughter, except that the worker may apply to the Board for a determination that such employment is bona fide covered employment subject to this subtitle.

(10) “Insured status”:

(a) “Fully insured individual” means any individual who has not less than one quarter of coverage for each year beginning after June 30, 1968, or for each year after attaining the age of 21, whichever is later, and up to but excluding the year in which he attained retirement age, or became disabled, or died, whichever first occurred, except that in no case shall an individual be a fully insured individual unless he has at least 12 quarters of coverage.

(b) “Currently insured individual” means any individual who has had not less than eight quarters of coverage during the 13 quarter period ending with:

(i) the quarter in which he died; or

(ii) the quarter in which he became entitled to old age insurance benefits; or

(iii) the quarter in which he became disabled, whichever first occurs.

(11) “Quarter” and “calendar quarter” mean a period of three calendar months ending on March 31, June 30, September 30, or December 31. “Quarter of coverage” means a quarter in which the individual has been paid \$50 or more in wages in employment subject to this subtitle.

(12) “Wages” means remuneration paid subject to the provisions of this subtitle, including the cash value of all remuneration paid in any medium other than cash and remuneration accruing to a self-employed person. Remuneration accruing to a self-employed person shall be deemed to be twice the

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

amount paid to the highest paid employee reported by the self-employed person in a quarter, subject to \$2,000 maximum per quarter. Remuneration accruing to a self-employed person who has no covered employees shall be deemed to be 25 percent per quarter of ten percent of the gross revenue of his business for the previous calendar year, subject to \$2,000 maximum. Remuneration paid for any service which is more or less than a whole dollar shall, as may be prescribed by regulations, be computed to the nearest dollar. Wages shall not include:

- (a) that part of remuneration in excess of \$2,000 paid in a quarterly reporting period by one employer;
- (b) any payment on account of sickness or accident disability, or medical or hospitalization expenses made by an employer to or on behalf of an employee;
- (c) any payment made to or on behalf of an employee or to his beneficiary from a trust or annuity;
- (d) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of an employer;
- (e) remuneration paid for casual or intermittent labor not performed in the course of the employer's trade or business when such employment does not exceed employment in more than one week in each calendar month of each quarterly reporting period.

Source: COM PL 3-40 § 3; COM PL 3C-48 §§ 1-4; TT Code 1970, 73 TTC 3; COM PL 4C-19 § 1; COM PL 5-7 §§ 1-4; COM PL 5-15 §§ 4, 5; COM PL 6-89 § 1; COM PL 6-91 §§ 1, 2; COM PL 6-137 § 1; TT Code 1980, 73 TTC 3; PL 3-11 § 1; PL 3-37 § 1.

Editor's note: Subsections rearranged in alphabetical order in the 1982 edition of this code.

§ 104. Susceptibility of benefits, contributions, and funds to legal process or assignment.

The benefits, the employee and employer contributions, and the securities in the several funds from all taxes presently or hereafter levied shall not be subject to execution, attachment, or garnishment and shall be nonassignable except as specifically provided in this title.

Source: COM PL 3-40 § 19; TT Code 1970, 73 TTC 4; TT Code 1980, 73 TTC 4.

Case annotation: The statute 54 F.S.M.C. 153 does not require the government to give notice of its lien claims to any other creditors or even to the taxpayer. This statute, then, authorizes a lien which may be kept secret from interested parties. The effect of such a lien would be determined against the background of the strong general policy against secret liens. *Bank of Guam v. Island Hardware, Inc. (II)*, 3 FSM R. 105, 108 (Pon. 1987).

53 F.S.M.C. 104 does not establish lien rights in the Trust Territory Social Security Board, and gives the board no lien or priority claim of any kind. *In re Mid-Pacific Constr. Co.*, 3 FSM R. 292, 299 (Pon. 1988).

§ 105. Violations—Penalties.

(1) Any person who knowingly makes any false statement or who falsifies any report to or record of the Trust Territory Social Security System in an attempt to defraud the system is guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than \$2,000, or both.

(2) Any person who willfully fails to report wages paid or pay contributions required thereon is guilty of a misdemeanor and, in addition to any other penalty prescribed by law, such a person shall

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

also pay penalties not in excess of 100 percent of the tax due plus interest to the Board as it by regulation shall require.

(3) Any covered employer who fails to submit the quarterly report and pay the Social Security tax within 10 days after the end of the quarter shall be considered delinquent. The Board or its authorized representatives shall be vested with the authority to levy a penalty of not more than \$250 on delinquent employers.

Source: COM PL 3-40 § 20; COM PL 4-10 § 1; COM PL 3C-54 § 1; TT Code 1970, 73 TTC 5; TT Code 1980, 73 TTC 5; PL 3-11 § 2.

Editor's note: This section is published as it appears in the 1970 and 1980 editions of the Trust Territory Code. Subsection (1) is shown in its form as amended by COM PL 4-10, effective August 23, 1968. However, the 1970 edition failed to reflect the amendment of this subsection by COM PL 3C-54, effective September 22, 1970, although the 1970 edition contains subsection (3), which had been added by COM PL 3C-54.

The title of COM PL 3C-54 is: "To amend section 20 of Public Law 3-40 by making an additional paragraph thereto to be designated 'c' and for other purposes." See Secretarial Order No. 2918, § 16(c).

Subsection (1), as amended by COM PL 3C-54, states:

"(1) Any person who knowingly makes any false statement who falsifies or permits to be falsified any report to or record of the Trust Territory Social Security System in an attempt to defraud the system shall be guilty of a misdemeanor and fined or imprisoned or both in accordance with law."

No substantive subsequent amendment of subsection (1) has been made to date.

§ 106. Budget for and appropriation of costs of administration.

(1) At such time as the Social Security Board may prescribe, but not later than January 3 preceding each regular session of the Congress of Micronesia, the Social Security administrator shall submit to the Congress on forms and in the manner prescribed by the Board, a detailed estimate of the amount of money required to be appropriated for the next ensuing fiscal period, from April 1 through March 31 of the following year, for the proper conduct of the Social Security System, and the number of employees for which provision is made. The budget shall be so presented as to show in addition to the amount which is estimated to be required:

- (a) the actual expenditures for the last completed fiscal period;
- (b) the estimated expenditures for the fiscal period in progress, together with such summaries, schedules, and supporting data as may be deemed necessary;
- (c) a statement showing the estimated condition of the Trust Territory Social Security Retirement Fund at the close of the fiscal year in progress; and
- (d) a balanced summary of actual receipts and expenditures under the fund for the last completed fiscal year, and estimated receipts for the fiscal year in progress, and for the ensuing year.

(2) The Congress of Micronesia shall appropriate such amount of moneys as shall be deemed necessary for the administrative cost and operations of the Social Security System from the Trust Territory Social Security Retirement Fund. The Trust Territory administration shall budget for and allocate from United States grant funds the amount of funds necessary to cover its contribution as an employer under the provisions of this chapter.

Source: COM PL 3-40 § 21; TT Code 1970, 73 TTC 6; COM PL 6-49 § 5; TT Code 1980, 73 TTC 6.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title. See also Secretarial Order 3039 § 6, as amended.

CHAPTER 2 Social Security Board

SECTIONS

- § 201. **Creation; Composition; Terms; Organization and procedure; Compensation.**
- § 202. **Powers and duties generally.**
- § 203. **Promulgation of regulations; Hearings; Employees; Annual report.**
- § 204. **Maintenance of records; Disclosure of records.**
- § 205. **Appointment of district directors.**
- § 206. **Audit of records; Power to subpoena; Administrative of oaths.**
- § 207. **Actuaries and actuarial valuations.**
- § 208. **Review of Board determinations.**

Editor's note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation "subtitle I" has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, "Federated States of Micronesia Social Security Act," as subtitle II. Accordingly, "this title," as it appears in chapters 1 through 5, should be read "this subtitle."

§ 201. Creation; Composition; Terms; Organization and procedure; Compensation.

(1) There is hereby created a Trust Territory Social Security Board of five members appointed by the High Commissioner to administer the Social Security and prior Government service insurance programs authorized by this title.

(2) The Board shall serve two year terms and shall provide for its own organization and procedure.

(3) Members of the Board who are not Government employees shall be paid at the rate of \$30 per day and necessary travel expenses when actually attending meetings of the Board. If a member of the Board is concurrently employed by the Government of the Trust Territory, he shall receive his salary during attendance at Board meetings; provided that if his daily salary shall be less than \$30, he shall also be entitled to receive the difference between his daily salary and \$30.

Source: COM PL 3-40 § 4(a); TT Code 1970, 73 TTC 51; TT Code 1980, 73 TTC 51.

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title.

§ 202. Powers and duties generally.

(1) The Board shall have the powers and privileges of a corporation, shall have an official seal, and shall in the name "Trust Territory Social Security System Board" transact all business, enter into contracts, invest all funds, or retain a firm to invest or reinvest funds under the Board's supervision and under the rules, regulations, and conditions the Board may issue from time to time, transfer, or assign such funds as herein authorized, purchase annuities, and hold in trust for the purposes for which received all cash, securities, and other properties of the system.

(2) In the name "Trust Territory Social Security System Board" it may sue and be sued.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(3) The general administration and responsibility for the proper operation of this title shall be vested in the Board, which shall have power to delegate duties and responsibilities to such employees as it deems feasible and desirable to carry out the provisions of this title.

Source: COM PL 3-40 § 4(b); COM PL 4-31 § 1; TT Code 1970, 73 TTC 52; TT Code 1980, 73 TTC 52.

§ 203. Promulgation of regulations; Hearings; Employees; Annual report.

(1) The Board may adopt, amend, or rescind regulations for the administration of this title subject to the approval of the High Commissioner.

(2) It may hold hearings or make decisions upon hearings delegated to others for the purpose of determining any question involving any right, benefit, or obligation of any person subject to this title.

(3) It may hire and fix the compensation of such employees it deems necessary within the limits of available administrative funds budgeted for its operation and it may contract for special actuarial and insurance counseling on a fee basis.

(4) It shall bond itself and its employees in such amounts as it shall fix.

(5) It shall submit to the High Commissioner and the Congress of Micronesia for each fiscal year a report of its operations and the conditions of its funds, and in such report shall make recommendations for amendments to this title it deems desirable.

Source: COM PL 3-40 § 4(c); TT Code 1970, 73 TTC 53; TT Code 1980, 73 TTC 53.

Case annotation: Section 203(2) of Title 53 provides that the Social Security Board may hold hearings or make decisions upon hearings delegated to others for the purpose of determining any question involving any right, benefit, or obligations of any person subject to Title 53. Thus Social Security has in part a quasi-judicial function. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 101, 103 (Kos. 2003).

§ 204. Maintenance of records; Disclosure of records.

The Board shall receive and maintain files and records of all employers and all employees subject to this title. Such records shall not be disclosed to any person except as may be required in the administration of this title, or in connection with a hearing conducted in accordance with the provisions of this title.

Source: COM PL 3-40 § 4(d); TT Code 1970, 73 TTC 54; TT Code 1980, 73 TTC 54.

Case annotation: While section 204 of Title 53 provides that the Social Security Board shall receive and maintain files and records of all employers and all employees subject to this Title, no specific Social Security rule or regulation requires that the Board's final decision take the form of an "order," or that it be "entered" in some specifically defined way. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 101, 103 (Kos. 2003).

§ 205. Appointment of district directors.

The Board shall have the authority to appoint district directors and delegate such power to such directors as it may by regulation prescribe.

Source: COM PL 3-40 § 4(e); TT Code 1970, 73 TTC 55; TT Code 1980, 73 TTC 55.

§ 206. Audit of records; Power to subpoena; Administrative of oaths.

The Board and its authorized representatives shall have the power to audit employer records, issue subpoenas, and administer oaths appropriate to the administration of this title.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

Source: COM PL 3-40 § 4(f); TT Code 1970, 73 TTC 56; TT Code 1980, 73 TTC 56.

§ 207. Actuaries and actuarial valuations.

The Board shall employ or contract with actuaries or actuarial firms for the purpose of making actuarial valuations of the Trust Territory Social Security System not less frequently than each three years after the date of commencement of the system. Such reports made to the Board shall be submitted with appropriate recommendations for changes in the system and amendments to this title to the High Commissioner and the Congress of Micronesia.

Source: COM PL 3-40 § 4(g); TT Code 1970, 73 TTC 57; TT Code 1980, 73 TTC 57.

§ 208. Review of board determinations.

(1) Any person aggrieved by a final order of the Board may obtain a review of the order in the Trial Division of the High Court by filing in Court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part.

(2) A copy of the petition shall be served on the Board, by service on its secretary or other designated agent, and thereupon the Board shall certify and file in Court a copy of the record upon which the order was entered.

(3) The findings of the Board as to the facts, if supported by competent, material, and substantial evidence, shall be conclusive.

(4) If either party applies to the Court for leave to adduce additional material evidence, and shows to the satisfaction of the Court that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives, and that such evidence is competent, material, and substantial, the Court may order the additional evidence to be taken by the Board and to be adduced upon the hearing in such manner and upon such conditions as the Court considers proper. The Board may modify its findings and order after receipt of further evidence together with any modified or new findings or order.

(5) The judgment of the Court upon the record shall be final, subject to review by the Appellate Division of the High Court upon petition of any aggrieved party, including the Board, within 60 days from judgment.

Source: COM PL 3-40 § 4(h); TT Code 1970, 73 TTC 58; TT Code 1980, 73 TTC 58.

Case annotation: Since "enter" means to place anything before a court, or upon or among the records, in a formal and regular manner, and usually in writing, and since common sense must play a part in the way that an agency's statutorily mandated procedures are interpreted, a letter from the Social Security Board stating that it is a final decision by the Board, and that the petitioner has the option of appealing to the FSM Supreme Court, is a final, entered order within the meaning of 53 F.S.M.C. 208. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 101, 103-04 (Kos. 2003).

CHAPTER 3
Coverage and Benefits

SECTIONS

- § 301. Employees covered.**
- § 302. Eligibility for old-age insurance.**
- § 303. TT Government prior-service credit.**
- § 304. Retirement benefits.**
- § 305. Reemployment after retirement.**
- § 306. Disability benefits.**
- § 307. Surviving spouse's benefits.**
- § 308. Children's benefits.**
- § 309. Survivor's insurance benefits—Amount.**
- § 310. Lump-sum benefits.**
- § 311. Benefits for prior Government service.**
- § 312. Payment of benefits to foreign citizens outside TT.**
- § 313. Adjustments in payments.**

Editor's note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation "subtitle I" has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, "Federated States of Micronesia Social Security Act," as subtitle II. Accordingly, "this title," as it appears in chapters 1 through 5, should be read "this subtitle."

§ 301. Employees covered.

(1) All employees as defined by this title, wherever employed by a Trust Territory employer, shall be covered by this title unless both the employer and the employee are currently subject to the United States social security system or any other recognized Social Security System.

(2) For the purposes of this title, any elected official in any Government unit or body in the Trust Territory is deemed to be an employee employed by a Trust Territory employer. The Governmental unit or body to which such person is elected is subject to the provisions in this title relating to the duty and obligations of a Trust Territory employer. Persons in family employment are excepted from the provisions of this title.

Source: COM PL 3-40 § 5(a); COM PL 3C-48 § 5; TT Code 1970, 73 TTC 101(1); COM PL 4C-18 § 1; COM PL 5-7 § 5; COM PL 6-89 § 2; TT Code 1980, 73 TTC 101(1).

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title.

§ 302. Eligibility for old-age insurance.

Every person who:

- (1) is a fully insured individual, as defined in this title;
- (2) has attained age 60 years; and
- (3) has filed application for old age insurance shall be entitled to an old age insurance benefit for each month, beginning with the month of July 1970, for which both subsections (1) and (2) of this

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

section are satisfied, whichever is later, and ending with the month preceding the month in which he dies, subject to the earnings test as defined in this title.

Source: COM PL 3-40 § 5(b); COM PL 3C-48 § 6; TT Code 1970, 73 TTC 101(2); COM PL 4C-19 § 2; COM PL 6-89 § 2; TT Code 1980, 73 TTC 101(2).

§ 303. TT Government prior-service credit.

(1) All citizens of the Trust Territory who had not less than five years of employment by the Trust Territory Government prior to July 1, 1968, shall be given prior-service credit for establishment of insured status and determination of benefits for himself, his surviving spouse or dependent children as provided in this title.

(2) Creditable prior service shall include employment for the Trust Territory for the number of years prior to July 1, 1968, that is in excess of five years, such service to be computed on a monthly basis with employment in any month credited as a full month.

(3) Prior-service credit shall be canceled upon termination of employment prior to accumulation of five years creditable service.

(4) Employment by the Government of the Trust Territory for prior-service credits shall include district but not municipal employment and shall include employment by any United States administering department or agency.

Source: COM PL 3-40 § 6; TT Code 1970, 73 TTC 102; TT Code 1980, 73 TTC 102.

§ 304. Retirement benefits.

(1) An insured, eligible individual shall be paid a monthly old age retirement pension for life, except for any month of disqualification as provided by this title, in an amount calculated upon an annual basis of 16.2 percent of the first \$10,000 of cumulative covered earnings, plus 2.7 percent of cumulative covered earnings in excess of \$10,000, but not in excess of the next \$30,000, plus 1.35 percent of cumulative covered earnings in excess of \$40,000, but not in excess of the next \$30,000, plus .675 percent of cumulative covered earnings in excess of \$70,000.

(2) Earnings for employment after commencement of payments for old age or disability insurance benefits shall be included in benefit calculations upon subsequent application for benefits, but such earnings shall be applicable for benefits for months after the calendar year in which such earnings occurred.

(3) An insured, eligible individual shall be paid a minimum monthly pension of \$43.20 if the pension amount calculated in accordance with subsection (1) of this section is less than \$43.20 monthly.

Source: COM PL 3-40 § 5; TT Code 1970, 73 TTC 105(1), (2); COM PL 5-7 § 7(part); COM PL 6-89 § 4(part); COM PL 6-91 § 3; COM PL 6-137 § 2(part); TT Code 1980, 73 TTC 105(1), (2); PL 1-136 § 2 (part); PL 3-37 § 2; PL 4-36 § 1.

§ 305. Reemployment after retirement.

In the event an individual who is receiving retirement insurance benefits returns to covered employment, his benefit shall be recomputed at the end of the calendar year and paid as provided in this title beginning with the year after the calendar year the earnings were made.

Source: COM PL 3-40 § 15; TT Code 1970, 73 TTC 106; COM PL 4C-19 § 5; TT Code 1980, 73 TTC 106.

§ 306. Disability benefits.

(1) Every individual who is a fully and currently insured individual and is disabled and has been disabled for at least three full calendar months, upon filing an application for disability insurance benefits, shall be entitled to a disability retirement pension for each month beginning with the month of January 1974, or the first month of the waiting period, whichever is later, and ending with the month preceding the month in which he dies or recovers from his disability, subject to the earnings test as defined in this title.

(2) An individual who is both fully and currently insured and who has been under a disability for three full calendar months shall be paid a monthly pension for life or until recovery from the disability, except for any month of disqualification as provided by this title, in an amount calculated in accordance with section 304 of this chapter.

(3) The amount of the pension as so determined shall, if the individual is receiving a periodic workmen's compensation benefit, be reduced each month by the excess of the sum of the workmen's compensation benefit for that month payable under this title, over 80 percent of one-twelfth of the highest annual covered wages in the period consisting of the year in which the disability occurred and the preceding five years.

(4) If a workmen's compensation benefit was payable in periodic benefits but was commuted to a lump sum, for purposes of this subsection it will be considered that the periodic benefit originally available was paid in each month that it would have been paid if the commutation had not occurred.

Source: COM PL 3-40 § 5(e); TT Code 1970, 73 TTC 104(3), 105(3); COM PL 5-7 §§ 4, 5; COM PL 6-89 §§ 3, 4; COM PL 6-137 § 2 (part); TT Code 1980, 73 TTC 104(3), 105(3); PL 1-136 §§ 1 (part), 2 (part).

§ 307. Surviving spouse's benefits.

The surviving spouse of an individual who died fully insured, if such spouse has filed application, shall be entitled to a survivor's insurance benefit for each month beginning with the month of July, 1970, or, if death occurred after July, 1970, the month of death of his or her fully insured spouse and ending with the month preceding the month in which he or she dies or the month preceding the month he or she remarries; provided, that such benefit shall be subject to the earnings test as defined in this title.

Source: COM PL 3-40 § 5(c); COM PL 4-31 § 2; COM PL 3C-48 § 7; TT Code 1970, 73 TTC 103; COM PL 4C-19 § 3; TT Code 1980, 73 TTC 103.

§ 308. Children's benefits.

(1) Every surviving child who was dependent upon an individual entitled to old-age benefits, or who was dependent upon an individual who dies fully insured or currently insured, upon filing application, shall be entitled to a child's insurance benefit for each month beginning with the month of January 1970, or the month of death of such individual whichever is later and ending with the month preceding whichever of the following first occurs:

(a) attainment of age 18 years, except that benefits are payable until the month before the attainment of age 22 so long as the beneficiary is a bona fide student, and except that benefits are payable during the disability of a child who was disabled before the attainment of age 22;

(b) marriage; or

(c) adoption (except for adoption subsequent to the death of the fully insured individual, upon whom the child is dependent, by a step-parent, grandparent, aunt, or uncle).

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(2) A child shall be deemed dependent upon his parent or adopting parent unless such individual was not living in the same household with or contributing to the support of such child. Child's insurance benefits shall be paid to the individual upon whom the child is currently dependent except such benefit shall be subject to the earnings test as defined in this title.

Source: COM PL 3-40 § 5(e); COM PL 3C-48 § 8; TT Code 1970, 73 TTC 104(1), (2); COM PL 4C-19 § 4; COM PL 5-7 § 6 (part); TT Code 1980, 73 TTC 104(1), (2); PL 1-136 § 1 (part).

§ 309. Survivors' insurance benefits—Amount.

(1) The surviving spouse of a fully insured worker eligible in accordance with section 307 of this chapter shall be paid a monthly pension in an amount equal to 60 percent of the retirement insurance benefit calculated for the deceased spouse at the date of death.

(2) Each eligible child of an insured worker shall be entitled to a monthly pension of 15 percent of the retirement insurance benefit calculated for the deceased parent at the date of death.

(3) If the spouse of the injured worker is eligible for retirement pension based on his or her own employment coverage, the survivor's insurance pension shall be reduced by the amount of such retirement pension.

(4) In no event shall the total survivors' pension paid to the spouse and children, as provided in this title, exceed the retirement pension calculated for the decedent as of the date of death nor shall it be less than \$33.60 a month computed prior to the application of subsection (3) of this section.

Source: COM PL 3-40 § 8; COM PL 4-31 § 3; COM PL 3C-48 § 9; TT Code 1970, 73 TTC 107; COM PL 5-7 § 8; COM PL 6-91 §§ 4, 5; TT Code 1980, 73 TTC 107; PL 1-136 § 3.

§ 310. Lump-sum benefits.

(1) When a worker dies before becoming entitled to a pension or after retirement and he and his dependents have received pension payments less than four percent of his cumulative covered earnings, the survivors, heirs, or the estate of such individual shall be paid a lump-sum benefit after all rights to survivors' benefits have terminated in an amount equal to four percent of the decedent's cumulative covered earnings, reduced by the amount of any pension paid to the insured worker and his eligible dependents, other than prior-service benefits paid for service for the Trust Territory Government.

(2) In the absence of a will, survivors shall be paid in the following order:

- (a) spouse, children in equal shares, or guardian, if such children are minors;
- (b) parents in equal shares;
- (c) duly appointed legal representatives of the deceased or, if none, person or persons determined to be entitled thereto under the laws and customs of the last domicile of the deceased person.

Source: COM PL 3-40 § 9(a); COM PL 3C-48 § 10; TT Code 1970, 73 TTC 108; TT Code 1980, 73 TTC 108.

§ 311. Benefits for prior Government service.

(1) An individual having prior-service credits for employment by the Trust Territory Government shall receive upon retirement (including disability retirement, when the individual has qualified for disability retirement benefits under section 306 of this chapter), in addition to any other benefits for which he may be eligible under this chapter, a prior-service pension in an amount equal to three percent of such employee's salary (not exceeding \$250 per month) received as of July 1, 1968, if

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

employee was employed by the Trust Territory Government on July 1, 1968 or, if not so employed, the salary received as of the month in which the employee terminated from Trust Territory Government prior to July 1, 1968 multiplied by the number of years creditable prior-service credited to him, with a minimum of \$10 per month.

(2) Survivors' insurance benefits for such employee shall be determined by including prior-service benefits in determination of the amount of survivors' insurance benefits as provided in this title.

(3) Prior-service benefits shall be funded from general funds appropriated for operation of the Trust Territory Government and shall be paid into the Retirement Fund in advance upon quarterly calculation of ensuing prior-service benefit payments by the Retirement Board.

Source: COM PL 3-40 § 10; TT Code 1970, 73 TTC 109; COM PL 5-7 § 9; COM PL 6-90 § 2; TT Code 1980, 73 TTC 109.

§ 312. Payment of benefits to foreign citizens outside TT.

(1) Notwithstanding any other provision of this chapter, no monthly benefits shall be paid under this chapter to any individual who is not a citizen or national of the Trust Territory for any month which is:

(a) after the sixth consecutive calendar month during all of which the administrator finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the Trust Territory; and

(b) prior to the first month thereafter for all of which such individual has been in the Trust Territory.

(2) For purposes of subsection (1), after an individual has been outside the Trust Territory for any period of 30 consecutive days he shall be treated as remaining outside the Trust Territory until he has been in the Trust Territory for a period of 30 consecutive days.

(3) Subsection (1) of this section shall not apply to any individual who is a citizen of a foreign country which the administrator finds has in effect a social insurance or pension system which is of general application in such country and under which:

(a) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death; and

(b) individuals who are citizens of the Trust Territory but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Source: COM PL 6-89 § 5; TT Code 1980, 73 TTC 111.

Editor's note: Subsections (1) and (2) of this section were previously a single subsection prior to the 1982 edition of this code.

§ 313. Adjustments in payments.

(1) Whenever an error has been made with respect to insurance payments to an individual, proper adjustment shall be made, under regulations promulgated by the Board in accordance with law, by increasing or decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by increasing or decreasing subsequently paid survivors' benefit payments payable with respect to the wages which were the basis of benefits of such deceased individual.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(2) No adjustment shall be made when adjustment or recovery would be against equity and good conscience.

Source: COM PL 3-40 § 11; TT Code 1970, 73 TTC 110; TT Code 1980, 73 TTC 110.

CHAPTER 4
Contributions

SECTIONS

- § 401. Employee contributions—Amounts.**
- § 402. Employee contributions—Collection.**
- § 403. Employer contributions.**
- § 404. Employee refunds.**
- § 405. Reporting—Social security card and number.**

Editor's note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation "subtitle I" has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, "Federated States of Micronesia Social Security Act," as subtitle II. Accordingly, "this title," as it appears in chapters 1 through 5, should be read "this subtitle."

§ 401. Employee contributions—Amounts.

There is hereby imposed on the income of every employee a tax equal to the following percentages of wages received by him with respect to employment subject to this title:

- (1) with respect to wages paid from July 1, 1968, through June 30, 1976, the rate shall be one percent;
- (2) with respect to wages paid from July 1, 1976, through June 30, 1980, the rate shall be one and one-half percent;
- (3) with respect to wages paid from July 1, 1980, through June 30, 1985, the rate shall be two percent;
- (4) with respect to wages paid from July 1, 1985, through June 30, 1990, the rate shall be three percent;
- (5) with respect to wages paid from July 1, 1990, through June 30, 1995, the rate shall be four percent;
- (6) with respect to wages paid from July 1, 1995, through June 30, 2000, the rate shall be five percent;
- (7) with respect to wages paid after June 30, 2000, the rate shall be six percent.

Source: COM PL 3-40 § 12(a); TT Code 1970, 73 TTC 151(1); COM PL 5-15 § 1 (part); COM PL 6-91 § 6; TT Code 1980, 73 TTC 151(1).

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title.

§ 402. Employee contributions—Collection.

The tax imposed shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required to so deduct the tax shall be liable

for the payment of such tax to the Board, and shall be indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

Source: COM PL 3-40 § 12(b); TT Code 1970, 73 TTC 151(2); COM PL 5-15 § 1 (part); TT Code 1980, 73 TTC 151(2).

§ 403. Employer contributions.

There is hereby imposed on every employer an excise tax, with respect to having an individual in his employ, equal to the following percentages of wages, paid by him with respect to employment subject to this title:

- (1) with respect to wages paid from July 1, 1968, through June 30, 1976, the rate shall be one percent;
- (2) with respect to wages paid from July 1, 1976, through June 30, 1980, the rate shall be one and one-half percent;
- (3) with respect to wages paid from July 1, 1980, through June 30, 1985, the rate shall be two percent;
- (4) with respect to wages paid from July 1, 1985, through June 30, 1990, the rate shall be three percent;
- (5) with respect to wages paid from July 1, 1990, through June 30, 1995, the rate shall be four percent;
- (6) with respect to wages paid from July 1, 1995, through June 30, 2000, the rate shall be five percent;
- (7) with respect to wages paid after June 30, 2000, the rate shall be six percent.

Source: COM PL 3-40 § 13; TT Code 1970, 73 TTC 152; COM PL 5-15 § 2; COM PL 6-91 § 7; TT Code 1980, 73 TTC 152.

§ 404. Employee refunds.

When a covered employee is credited with earnings in excess of the quarterly maximum provided by law for a quarter and taxes on the excess are withheld and paid into the Trust Territory Social Security Retirement Fund, the excess employee's tax credited to the employee during the four quarters ending June 30 of each year shall be refunded to the employee within 90 days of that date; provided, that the excess employee's taxes are one dollar or more. No refund, however, shall be granted to the employer or employers of such employee of taxes paid by such employers on account of wages paid by them to the employee.

Source: COM PL 3-40 § 14; TT Code 1970, 73 TTC 153; COM PL 5-15 § 3; COM PL 6-91 § 8; TT Code 1980, 73 TTC 153.

§ 405. Reporting—Social security card and number.

- (1) The Board shall furnish each employer forms for record keeping and reporting of contributions which shall show in addition to other information specified by the Board the employer account number and the employee social security number.
- (2) Numbers shall be issued by the Board from a permanent register maintained by it.
- (3) Each employer shall report quarterly, on the prescribed forms, and pay taxes due thereon to the Board in accordance with the Board regulation and subject to interest and penalty for failure so to do.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(4) Each employee shall be assigned a social security number and a card bearing this number.

Source: COM PL 3-40 § 16; TT Code 1970, 73 TTC 154; TT Code 1980, 73 TTC 154.

CHAPTER 5
Retirement Fund

SECTIONS

- § 501. Created—Administration.**
§ 502. Composition—Handling.
§ 503. Contingency reserve account.
§ 504. Investment of funds—Generally.
§ 505. Investment of funds—Authorized investments enumerated.

Editor’s note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation “subtitle I” has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, “Federated States of Micronesia Social Security Act,” as subtitle II. Accordingly, “this title,” as it appears in chapters 1 through 5, should be read “this subtitle.”

§ 501. Created—Administration.

There shall be a Trust Territory Social Security Retirement Fund separate and apart from all public moneys or funds of the Trust Territory, which shall be administered by the Social Security Board exclusively for the purposes of this title.

Source: COM PL 3-40 § 17(a); TT Code 1970, 73 TTC 201; TT Code 1980, 73 TTC 201.

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title.

§ 502. Composition—Handling.

- (1) The Retirement Fund shall consist of:
- (a) all employee contributions;
 - (b) all employer contributions;
 - (c) all penalties and interest collected on account of contributions;
 - (d) all gifts, donations, and fund transfers authorized by law; and,
 - (e) all interest and earnings from investment of the funds.
- (2) All moneys in the fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law or regulation for other public moneys or funds of the Trust Territory Government.

Source: COM PL 3-40 § 17(a), (b); TT Code 1970, 73 TTC 202; TT Code 1980, 73 TTC 202.

§ 503. Contingency reserve account.

There shall be a contingency reserve account within the Retirement Fund for the purpose of payment of insurance benefits. Funds in the Retirement Fund in excess of the amount required for maintenance of the contingency reserve account shall be invested by the Board as provided in this title.

Source: COM PL 3-40 § 17(c); TT Code 1970, 73 TTC 203; TT Code 1980, 73 TTC 203.

§ 504. Investment of funds—Generally.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

The Board, after investigation and study, shall determine the methods of investing its trust funds to insure the greatest return commensurate with sound financing adequately safeguarded. The Board may invest and reinvest the moneys in its funds and may hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the moneys of its funds are invested, and, upon such sale, the proceeds thereof shall be redeposited in the funds of the Board subject to reinvestment and payment therefrom by order of the Board.

Source: COM PL 3-40 § 18(a); TT Code 1970, 73 TTC 204; TT Code 1980, 73 TTC 204.

§ 505. Investment of funds—Authorized investments enumerated.

The Board may invest and reinvest its moneys:

(1) in bonds or other evidences of indebtedness of the United States or any of its agencies or instrumentalities;

(2) in bonds or other evidences of indebtedness of any State, any county, or incorporated municipality or duly organized school district of any State or territory of the United States, including bonds or evidences of indebtedness which are payable from revenues or earnings specifically pledged for the payment of the principal and interest on such obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained, but only if no default in payment of principal or interest on the obligations to be purchased has occurred within five years of the date of investment therein, or, if such obligations were issued less than five years prior to the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased nor on any other obligations of the issuer within five years of such investments;

(3) bonds, debentures, notes and other evidences of indebtedness issued or assumed by Trust Territory institutions, created or existing under the laws of the Trust Territory, including housing authorities, when such obligations are guaranteed as to principal and interest by the Government of the Trust Territory;

(4) bonds, debentures, notes, and other evidences of indebtedness issued, assumed, or guaranteed by any solvent institution created or existing under the laws of the United States or of any State or territory thereof, or of the Trust Territory, which are not in default as to principal or interest and which are secured by collateral worth at least 50 percent more than the par value of the entire issue of such obligations, but only if not more than one-third of the total value of such required collateral shall consist of common stock;

(5) common stock.

Source: COM PL 3-40 § 18(b); COM PL 4-31 § 4; TT Code 1970, 73 TTC 205; TT Code 1980, 73 TTC 205.

**SUBTITLE II
FSM SOCIAL SECURITY**

**CHAPTER 6
General Provisions**

SECTIONS

- § 601. Short title.**
§ 602. Declaration of policy.
§ 603. Definitions.
§ 604. Susceptibility of benefits, contributions, and funds to legal process or assignment.
§ 605. Violations—Penalties and interest—Attorney’s fees and costs.
§ 606. Accounts, budget, and costs of administration.
§ 607. Lien for taxes.

Editor’s note: Although most of the provisions of the TT Social Security Act in subtitle I of this title have been repealed by implication by the FSM Social Security Act codified in this subtitle II, the provisions of the TT Social Security Act are retained in subtitle I, since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

§ 601. Short title.

This subtitle is known and may be cited as the “Federated States of Micronesia Social Security Act.”

Source: PL 2-74 § 101.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

§ 602. Declaration of policy.

The purpose of this subtitle is to effect economy and efficiency in the fields of government and business by providing a means whereby employees may be ensured a measure of security in their old age and given an opportunity for leisure without hardship and complete loss of income, and, further, to provide survivors’ insurance for wage earners and their dependents.

Source: PL 2-74 § 102.

Case annotations: The FSM social security program’s purpose is to provide a means whereby employees may be ensured a measure of financial security in their old age and be given an opportunity for leisure without hardship and complete loss of income, and, further, to provide survivors’ insurance for wage earners and their dependents. 53 F.S.M.C. 602. The program is funded by joint contributions from employers and employees. *FSM Social Security Admin. v. Weilbacher*, 7 FSM R. 137, 141 (Pon. 1995).

§ 603. Definitions.

(1) “Application” means the prescribed form or forms provided to individuals by the Social Security Administrator as the exclusive means by which an individual may apply for the payment of any benefit provided for in section 801, 802, 803 or 803A of this Act.

(2) “Became disabled” means the first month in which an individual is under a disability.

(3) “Board” means the Federated States of Micronesia Social Security Board provided for by section 701 of this subtitle.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(4) “Child or spouse” means an applicant that the court of the State in which an individual was domiciled at the time of his death has or would find to be the individual’s child or spouse in determining the devolution of intestate personal property. “Child” shall include only the deceased individual’s biological children and such adopted children whose confirmed petition for adoption by the wage earner has been presented to the Social Security Administration and who were adopted by the wage earner on or prior to the wage-earner’s 55th birthday of the adopting parent, shall be a “child” for the purposes of this title unless, the Social Security Administrator makes a determination that, due to exceptional circumstances, the person shall be so entitled. In reaching a determination that exceptional circumstances apply, the Social Security Administrator shall satisfy himself or herself that future eligibility for social security benefits was not a significant factor in the decision to adopt and may consider any available, relevant information including, but not limited to:

- (a) whether the adopted child’s biological mother, and/or biological father were alive at the time the adoption took place;
- (b) if one or both biological parents were alive at the time of adoption, whether one or both parents were acting or were capable of acting as a primary caregiver at that time;
- (c) whether the adopting parent is a relative of the adopted child;
- (d) whether, at the time the adoption took place, there were relatives, not including the adopting parents, who would have been appropriate guardians for the adopted child;
- (e) whether the adopting parent was a primary caregiver for the adopted child at the time of adoption and continued in that role after the adoption took place;
- (f) any other factor the Social Security Administrator considers relevant.

(5) “Contributions” means the tax imposed upon income of covered employees and the tax imposed upon employers on account of wages paid to a covered employee.

(6) “Disability” means inability to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(7) “Earning test” means that an individual who receives a retirement, disability, or survivor benefit and who works in covered or non-covered employment shall have his quarterly benefit reduced by one dollar for each two dollars earned in a quarter, except there shall be no reduction for the first \$300 earned in a quarter. The reduction shall be applied in one of the subsequent two quarters immediately after the quarter in which the earnings were made, or as soon as possible thereafter. All benefit recipients have an affirmative duty to disclose to the FSM Social Security Administration all earnings from either covered or non-covered employment for which time they are receiving or claiming benefits. Under certain circumstances as defined in section 804, the earnings test may not apply to old age benefits received by an individual between the ages of 60 and 64 who turns 60, after January 1, 2011.

- (8) “Employee” means:
- (a) any officer of a corporation; or
 - (b) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or
 - (c) any self-employed person who has at least one employee for whom he is required to report in a given quarter; or
 - (d) any self-employed person who had more than \$10,000 of annual gross revenue in the preceding calendar year.

(9) “Employer” means:

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(a) For purposes of this Act, employer means the person, business organization or other organization, or national or state or municipal government or agency, that pursuant to common law rules of employment is the actual person or organization responsible for the formation and continuation of the working relationship with employee.

(b) The Social Security Administration has the right to determine the actual employer of employees for purposes of implementing this Act, and need not rely on the characterization provided.

(c) Employer may be an individual, partnership, corporation or other type of business venture or non-business organization, national or municipal or state organization or agencies thereof, and which in certain circumstances may be more than one, that is responsible for the payment of all Social Security taxes. For partnerships, the liability shall be joint and several among all partners. For other types of business or non-business organizations that are not corporations, the liability shall be joint and several as if the organization was a common law partnership. For corporations, if the corporation fails to meet its tax obligations when due, the liability shall be joint and several between the president of the corporation, and all shareholders with greater than a 30% interest in the corporation.

Under this definition all such persons are jointly defined as the employer, for all purposes including the implementation of criminal penalties.

Case annotations: For Social Security purposes, wages means payment, salary, or compensation for employment, whether received in cash or a medium other than cash, such as meals. *FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (I)*, 7 FSM R. 280, 284 (Yap 1995).

Social Security contributions are taxed from both employer and employee, and the employer is responsible for assessing the employee's contribution and withholding it from wages as and when paid. *FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (I)*, 7 FSM R. 280, 285 (Yap 1995).

The cash value of meals provided by the employer, even if provided for the convenience of the employer, constitute wages subject to the social security tax. *FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (I)*, 7 FSM R. 280, 288 (Yap 1995).

Both employer and employee must pay a tax or contribution to the social security trust fund. It is the employer's responsibility to deduct the employee's contribution from the wages it pays. *FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (II)*, 7 FSM R. 365, 367 (Yap 1996).

Social security taxes are a percentage calculated from the wages actually received by the employee not from the amount in the employment contract. *FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (II)*, 7 FSM R. 365, 367 (Yap 1996).

(10) "Employment, covered" or "covered employment" means any service by an employee for an employer incorporated or doing business within the Federated States of Micronesia employing him, irrespective of where such employment is performed, except family employment.

(11) "Employment, non-covered" or "non-covered employment" means any employment engaged in by an employee where coverage is statutorily exempt in the Federated States of Micronesia, family employment, or employment by an employee outside of the Federated States of Micronesia and which is not taxable by the FSM Social Security Administration.

(12) "Family employment" means employment of a worker by a member of the household, a parent or a son or daughter except that the worker may apply to the Board for a determination that such employment is *bona fide* covered employment subject to this subtitle.

(13) "Insured status" can mean any of the following:

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(a) “Currently insured individual” means any individual who has had not less than 20 quarters of coverage during the 25 quarter period ending with:

- (i) the quarter in which he died; or
- (ii) the quarter in which he became entitled to old age insurance benefits at age 60; or
- (iii) the quarter in which he became disabled, whichever first occurs.

(b) For individuals who qualified as a currently insured person prior to December 31, 2006, the number of quarters to qualify as a currently insured person was not less than eight quarters of coverage during the 13 quarter period ending with:

- (i) the quarter in which he died; or
- (ii) the quarter in which he became entitled to old age insurance benefits at age 60;
- (iii) the quarter in which he became disabled, whichever occurs first.

(c) “Fully insured individual” means any individual whose total cumulative quarters of coverage are at least as great as the number of years calculated from the later of the date the worker turned age 21, or June 30, 1968, to the date the worker attains age 60, dies or becomes disabled. For this purpose, partial years shall be counted as whole years (for example 37.25 years would be rounded up to 38 years). In no case shall an individual be a fully insured individual unless he has at least 12 quarters of coverage:

(i) For individuals who attain age 60, die or become disabled on or before December 31, 2006, no more than 38 quarters of coverage are required to be fully insured and there is no minimum amount required for employee contributions to the Social Security System.

(ii) For individuals who turn 60 or die after December 31, 2006, no more than 50 quarters of coverage and employee contributions to the Social Security System of at least \$2,500 are required to be fully insured. Should an individual’s employee contributions total less than \$2,500 as of the date of termination of employment or death, the individual or their surviving spouse may pay the difference to the FSM Social Security Administration in a single sum payment in order to become fully insured. The surviving children will be eligible for benefits so long as the individual was currently insured at the time of the individual’s death.

(iii) For individuals who become disabled after December 31, 2006, no more than 45 quarters of coverage and employee contributions to the Social Security System of at least \$1,500 are required to be fully insured. Should an individual’s employee contribution total less than \$1,500 as of the date of termination from employment, the individual may pay the difference to the FSM Social Security Administration in a single sum payment in order to become fully insured.

(d) “Fully insured status” means:

(i) For individuals who turn 60 or die after January 01, 2010, shall have total cumulative quarters of coverage equaling 50 quarters of coverage or greater, and employee contributions to the Social Security System of at least \$2,500 are required to be fully insured. Employee contributions are the contributions defined in section 901 only. Should an individual’s employee contributions total less than \$2,500 as of the date of qualification as a fully insured individual, the individual or their surviving spouse may pay the difference to the FSM Social Security Administration in a single sum payment in order to be fully insured. If the individual or the surviving spouse is unable to pay the

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

difference on the minimum contribution, the individual or surviving spouse can opt for lump sum payment equal to the total employee contribution.

(ii) “Fully insured” means for individuals who become disabled on or after January 1, 2010, at least 45 quarters of coverage are needed to be defined as fully insured, and they must also meet the definition of currently insured at the time of the onset of their disability. Additionally, employee’s contributions to the Social Security System of at least \$1,500 are required to be fully insured. Should an individual’s employee contribution total less than \$1,500 as of the date of disability, the individual may pay the difference to the FSM Social Security Administration in a single lump sum payment in order to be fully insured.

(14) “Quarter” and “calendar quarter” mean a period of three calendar months ending on March 31st, June 30th, September 30th, or December 31st. “Quarter of coverage” means a quarter in which the individual has been paid \$300 or more in wages in covered employment subject to this subtitle.

(15) “Wages” means remuneration paid subject to the provisions of this subtitle, including the cash value of all remuneration paid in any medium other than cash and remuneration accruing to a self-employed person. Remuneration accruing to a self-employed person shall be deemed to be twice the amount paid to the highest paid employee reported by the self-employed person in a quarter, with a maximum of \$3,000 per quarter through September 30, 2003 and a maximum of \$5,000 per quarter beginning October 1, 2003. This maximum quarterly amount shall increase to \$6,000 on January 1, 2008, \$7,000 on January 1, 2013, \$8,000 on January 1, 2018, \$9,000 on January 1, 2023, and \$10,000 on January 1, 2028. Remuneration accruing to a self-employed person who has no covered employees shall, for each quarter of a year, be deemed to be five percent of the gross revenue of the business for the previous calendar year, subject to a \$3,000 maximum per quarter through September 30, 2003 and a maximum of \$5,000 per quarter beginning October 1, 2003. The maximum quarterly amount shall increase to \$6,000 on January 1, 2008, \$7,000 on January 1, 2013, \$8,000 on January 1, 2018, \$9,000 on January 1, 2023, and \$10,000 on October 1, 2028. Remuneration paid for any service, which is more or less than a whole dollar shall, as may be prescribed by regulations, be computed to the nearest dollar. Wages shall not include:

(a) that part of remuneration in excess of \$3,000 through September 30, 2003 and in excess of \$5,000 beginning October 1, 2003, in excess of \$6,000 beginning January 1, 2008, in excess of \$7,000 beginning January 1, 2013, in excess of \$8,000 beginning January 1, 2018, in excess of \$9,000 beginning on January 1, 2023, and in excess of \$10,000 beginning on January 1, 2028, paid in a quarterly reporting period by one employer;

(b) any payment on account of sickness or accident disability, or medical or hospitalization expenses made by an employer to or on behalf of an employee;

(c) any payment made to or on behalf of an employee or to the employee’s beneficiary from a trust or annuity;

(d) remuneration paid in any medium other than cash to an employee for service not in the course of the employer’s trade or business or for domestic service in a private home of an employer;

(e) remuneration paid for casual or intermittent labor not performed in the course of the employer’s trade or business when such employment does not exceed employment in more than one week in each calendar month of each quarterly reporting period; and

(f) remuneration from family employment subject to the provisions of this subtitle.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

Source: PL 2-74 § 103; PL 5-120 § 1; PL 7-118 § 1; PL 12-76 § 1; PL 14-37 §1; PL 14-86 § 1; PL 15-73 § 1; PL 16-10 § 1.

Editor's note: Amendments to this section made by PL 7-118 § 1 became effective July 1, 1993 pursuant to PL 7-118 § 3.

Case annotation: The determination of an employee-employer relationship for tort liability purposes will not be based upon an employer's decision on whether to report the persons as "employees" for the purposes of reporting Social Security contributions and FSM Income Tax deductions. *Sigrah v. Timothy*, 9 FSM R. 48, 52 (Kos. S. Ct. Tr. 1999).

For the purposes of determining the employee status of an individual person for FSM Social Security contributions or for the FSM Income Tax law, the statutes look to the usual common law rules applicable in determining the employer-employee relationship. An employer includes any association or group employing any person. Employment means any service by an employee for the employer employing him, irrespective of where such employment is performed. *Sigrah v. Timothy*, 9 FSM R. 48, 52 (Kos. S. Ct. Tr. 1999).

§ 604. Susceptibility of benefits, contributions, and funds to legal process or assignment.

The benefits, the employee and employer contributions, and the securities in the several funds from all taxes presently or hereinafter levied shall not be subject to execution, attachment, or garnishment and shall be nonassignable except as specifically provided in this subtitle.

Source: PL 2-74 § 104.

Case annotation: There is no violation of the 53 F.S.M.C. 604 susceptibility of benefits rule, when there has been no execution, attachment, garnishment, or assignment of the judgment-debtor's Social Security retirement benefits and when the trial court's order in aid of judgment specifically found that the judgment-debtor would have sufficient funds for his and his dependents' basic support. *Rodriguez v. Bank of the FSM*, 11 FSM R. 367, 380 (App. 2003).

Social Security benefits are not subject to execution, attachment, or garnishment and are not assignable except as provided in the FSM Social Security Act. *Rodriguez v. Bank of the FSM*, 11 FSM R. 367, 377 (App. 2003).

When the judgment-debtor's Social Security retirement benefits are received by him and have not been subjected to any sort of direct levy, allotment or garnishment or any execution, attachment, or assignment of these benefits and when these benefits may be commingled with any other income the debtor may have available to him, and from these funds he meets his living expenses and his other obligations, the trial court's order in aid of judgment does not require that the payment come from any particular source of income. *Rodriguez v. Bank of the FSM*, 11 FSM R. 367, 379 (App. 2003).

When 53 F.S.M.C. 604 does not contain the broader language of, "or other legal processes," it cannot be interpreted in a manner identical to the U.S. statute that does. The FSM provision is more restrictive than the U.S. provision, as it protects Social Security benefits only from execution, attachment, garnishment, and assignment and not from other legal processes. *Rodriguez v. Bank of the FSM*, 11 FSM R. 367, 379 (App. 2003).

§ 605. Violations—Penalties and interest—Attorney's fees and costs.

(1) Any person who knowingly makes any false statement or who falsifies any report to or record of the Federated States of Micronesia Social Security System in an attempt to defraud the system is guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than \$2,000 or both. Any employer who intentionally fails to pay the employer's FSM Social Security taxes in any given quarter, or any employer who intentionally withholds FSM Social Security taxes from an employee's wages and does not pay FSM Social Security taxes on behalf of that employee, or any employer who employs an employee and knowingly fails to withhold FSM Social Security taxes on that employee is guilty of a misdemeanor and upon conviction

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

thereof shall be imprisoned not more than one year, or fined not more than \$2,000 or both. In addition to this criminal penalty, if an employer is determined by his failure to have paid either the employer's or employee's contributions to the FSM Social Security Administration, and the employee is denied benefits by the FSM Social Security Administration because of a lack of quarters of coverage, and the contributions withheld would have caused the employee to be fully or currently insured and eligible for benefits, the employer shall be responsible directly for the payment of all benefits that would accrue to the employee or his beneficiaries under this Act. If the employer, after the initial denial, subsequently makes back payments, the FSM Social Security Administration can seek repayment from the employer of all benefits paid to the employee as a penalty for the failure to pay.

(2) Any employer who willfully fails to report wages paid or pay contributions required thereon is guilty of a misdemeanor and, in addition to any other penalty prescribed by law, such an employer shall also pay penalties not in excess of 100 percent of the tax due plus interest to the Board as it by regulation shall require.

(3) Any person who receives benefits to which he or she is not entitled shall be liable to repay the Social Security Administration those benefits, and in addition to the remedies under section 808 of this subtitle, may be subject to civil action for recovery of those benefits.

(4) Any covered employer who fails to submit the quarterly report and pay the social security tax within ten days after the end of the quarter shall be considered delinquent. The Board or its authorized representatives shall be vested with the authority to levy a penalty of not more than \$1,000 per quarter on delinquent employers.

(5) If any tax or penalty imposed by this subtitle is not paid on or before the date prescribed for such payment, the Board or its authorized representatives shall be vested with the authority to collect, in addition to such tax and penalty, interest on the unpaid balance of the tax principal at the rate of 12 percent per annum from its due date until the date it is paid.

(6) In the event that any claim for monies due to the Social Security Administration under this subtitle is referred to an attorney or trial counselor for collection, whether or not suit is brought for the collection thereof, the individual or entity shall additionally be liable for reasonable attorney or trial counselor fees and costs of collection, including court costs incurred by the Social Security Administration. The Social Security Administration in its discretion may waive part or all of any attorney fee and costs awardable under this section.

(7) In the event of a violation of subsections (1), (2), (4), (5) or (6) of this section, the payments or penalties defined apply to the employer, as defined in section 603(9) of this chapter, and the payments or penalties, including criminal penalties, defined in these subsections can be enforced on the persons defined in section 603(9) of this chapter. In addition, for municipal organizations, states of the Federated States of Micronesia or national government or any agencies of any of the above, the Director of Finance, or its equivalent position of such organization is responsible for payments as described herein, and the payments or penalties, including criminal penalties, defined in these subsections can be enforced against such chief financial officer.

Source: PL 2-74 § 105; PL 5-120 § 2, modified; PL 14-37 § 2; PL 15-73 § 2.

Case annotations: A taxpayer who owes social security taxes to the government as employer contributions under the FSM Social Security Act is liable for reasonable attorney's fees if the tax delinquency is referred to an attorney for collection; however, the court may exercise discretion in determining the reasonableness of the fees assessed in light of the particular circumstances of the case. *FSM Soc. Sec. Admin. v. Mallarme*, 6 FSM R. 230, 232 (Pon. 1993).

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

Among the factors which the court may consider in determining the amount of attorney's fees recoverable in an action brought under 53 F.S.M.C. 605 is the nature of the violation, the degree of cooperation by the taxpayer, and the extent to which the Social Security Administration prevails on its claims. *FSM Soc. Sec. Admin. v. Mallarme*, 6 FSM R. 230, 232-33 (Pon. 1993).

The Social Security Administration is entitled to summary judgment for unpaid taxes when it supported its motion with an affidavit detailing the taxpayer's audit and other evidence indicating the taxpayer's liability, and the taxpayer has provided no evidence to indicate otherwise. *FSM Social Sec. Admin. v. Weilbacher*, 7 FSM R. 442, 445-46 (Pon. 1996).

A taxpayer is liable to the Social Security Administration for reasonable attorney's fees and costs when unpaid taxes are referred to an attorney for collection to the extent which the Social Security Administration prevails on its claims. *FSM Social Sec. Admin. v. Weilbacher*, 7 FSM R. 442, 447 (Pon. 1996).

A trial court may, pursuant to 53 F.S.M.C. 605(4), award attorney's fees and collection costs, including fees for a successful appeal, to the Social Security Administration. *FSM Social Sec. Admin. v. Kingtex (FSM) Inc.*, 8 FSM R. 129, 134 (App. 1997).

A successful plaintiff under the civil rights statute, 11 F.S.M.C. 701(3), is entitled to an award for costs and reasonable attorney's fees. *Davis v. Kutta*, 8 FSM R. 218, 220 (Chk. 1997).

When Congress has specifically given Social Security, not the courts, the discretion to levy a penalty and limited that discretion to \$1,000 a quarter and Social Security has exercised its discretion by levying a penalty less than that allowed by the statute, the court is generally bound to enforce it. The courts cannot usurp the power Congress granted to another governmental body. *FSM Social Sec. Admin. v. Kingtex (FSM) Inc.*, 8 FSM R. 129, 133 (App. 1997).

§ 606. Accounts, budget, and costs of administration.

(1) At such time as the Social Security Board may prescribe, the Social Security Administrator shall submit to the Board on forms and in the manner prescribed by the Board a detailed estimate of the budget for the next ensuing fiscal year for the proper conduct of the Social Security System. The Social Security Administrator shall submit to the Board:

- (a) the audited accounts of the income and expenditure and the balance in the Social Security Retirement Fund for the last completed fiscal year;
- (b) a statement showing the estimated income and expenditure for the fiscal year in progress, together with such summaries, schedules, and supporting data as may be deemed necessary;
- (c) a statement showing the estimated balance of the Social Security Retirement Fund at the close of the fiscal year in progress; and
- (d) a budget showing the estimated income and expenditure for the next ensuing fiscal year.

(2) For the next ensuing fiscal year, the estimated costs of administration including salaries and wages, purchase of office supplies, operational expenses, and the maintenance of branch offices shall not exceed an expenditure maximum equal to 11 percent of the estimated income for that year from contributions and interest and dividend income on investments less investment expenses, provided that such expenditure shall be based upon contributions and interest and dividend income on investments less investment expenses, determined on a maximum wage contribution of \$3,000 per quarter. Any increase in the wage contribution shall not affect the calculation of the maximum allowable expenditure. The audited accounts and the budget for the ensuing fiscal year shall be approved by the Board and submitted to the President and the Congress of the Federated States of Micronesia. Should the estimated

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

costs of administration exceed the expenditure maximum, legislative approval of the budgeted administration expenses is required.

Source: PL 2-74 § 106; PL 5-120 § 3; PL 12-76 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

§ 607. Lien for taxes.

(1) All taxes, including penalties and interest accrued thereon, imposed or authorized under this subtitle shall be a lien upon any property of the employer, having priority over all other claims and liens including liens for other taxes, except as provided in the Secured Transactions Act, and may be collected by levy upon such property in the same manner as the levy of an execution.

(2) All taxes, including penalties and interest accrued thereon, imposed or authorized under this subtitle owed by a state or municipal government or national government or any agency thereof, shall be subject to a writ of garnishment of all moneys owed by the FSM National Government to any state or municipal government or any agency thereof, and such writ of garnishment shall have priority over any claim for such moneys in any manner by the particular state or municipal government or agency thereof and such writs of garnishment are specifically exempt from any prohibitions under section 707 of title 6 of this code.

Source: PL 5-120 § 4; PL 14-34 § 81; PL 15-73 § 3.

Editor's note: In subsection (2) of this section, the phrase “of the Code of the Federated States of Micronesia” is replaced by “of this code” for format consistency.

Cross-reference: The Secured Transactions Act is codified at chapter 10 of title 33 (Commercial Law) of this code. Title 6 of this code is on Judicial Procedure.

Case annotations: All Social Security taxes, including penalties and interest, constitute a lien upon any property of the employer, having priority over all other claims and liens including liens for other taxes. This creates a lien for social security taxes that has priority over even other tax liens, such as the wage and salary tax liens given first priority in *Island Hardware* and *Pacific Islands Distributing*. *In re Engichy*, 12 FSM R. 58, 64 (Chk. 2003).

The social security tax lien arises by operation of law whenever social security taxes become due and are not paid. *In re Engichy*, 12 FSM R. 58, 64 (Chk. 2003).

Under 53 F.S.M.C. 607, Social Security taxes specifically take priority over other tax liens. *In re Engichy*, 12 FSM R. 58, 65 (Chk. 2003).

A social security tax lien has priority over a mortgage because section 607 grants social security tax liens priority over all other liens regardless of whether the other liens arose earlier. *In re Engichy*, 12 FSM R. 58, 65 (Chk. 2003).

Under the general rule a mortgage first in time has superior right in the absence of the applicability of a statutory provision to the contrary. Section 607 is a statutory provision to the contrary because it grants social security tax

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

liens priority over all other liens regardless of whether the other liens arose earlier. *In re Engichy*, 12 FSM R. 58, 65 (Chk. 2003).

Social Security's statutory priority tax lien is consistent with the general rule that acknowledges that the first-in-time priorities are also subject to legislative action that restructures the normal priorities. *In re Engichy*, 12 FSM R. 58, 65 (Chk. 2003).

Social Security's tax lien priority is statutory, not equitable. Statutory law, as enacted by Congress, not equitable principles fashioned by the court, applies. The statute, 53 F.S.M.C. 607, expressly gives Social Security a tax lien superior to all other liens. *In re Engichy*, 12 FSM R. 58, 65 (Chk. 2003).

As Congress clearly intended, social security tax liens must be given priority over all other claims and liens and paid first. *In re Engichy*, 12 FSM R. 58, 66 (Chk. 2003).

CHAPTER 7
Social Security Board
and Administration

SECTIONS

- § 701. Board—Established—Composition—Compensation.**
§ 702. Board—Powers and duties generally.
§ 703. Promulgation of regulations—Hearings—Employees—Annual report.
§ 704. Maintenance of records—Disclosure of records.
§ 705. Appointment of branch managers.
§ 706. Audit of records—Power to subpoena—Administration of oaths.
§ 707. Actuaries and actuarial valuations.
§ 708. Review of Board determinations.

§ 701. Board—Established—Composition—Compensation.

There is created a Federated States of Micronesia Social Security Board of five members nominated by the President and confirmed by the Congress of the Federated States of Micronesia to operate the Social Security Program authorized by this subtitle. Nominations to the Board shall take into account the need to have adequate geographical representation and to have representatives from public and private sector employers and employees. Members of the Board shall serve three year terms, and the Board shall provide for its own organization and procedure. Any vacancies on the Board shall be filled for the unexpired term only. Where a vacancy is for one year or less, it shall be filled by appointment by the President, otherwise vacancies shall be filled by nomination by the President and confirmation by the Congress. The Social Security Administrator shall be an *ex officio* member of the Board. Members of the Board who are not State or National Government employees shall be paid at the rate of \$30 per day and necessary travel expenses when actually attending meetings of the Board.

Source: PL 2-74 § 201; PL 5-120 § 5.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 702. Board—Powers and duties generally.

The Board shall have the powers and privileges of a corporation, shall have an official seal, and shall in the name of “Federated States of Micronesia Social Security Administration” transact all business, enter into contracts, invest all funds or retain a firm to invest or reinvest funds under the Board’s supervision, and, under its rules, regulations, and conditions, transfer or assign such funds as herein authorized, purchase annuities, and hold in trust for the purposes for which received, all cash, securities, and other properties of the system. In the name “Federated States of Micronesia Social Security Administration” it may sue and be sued. The responsibility for the proper operation of this subtitle shall be vested in the Board. The Board shall appoint a Social Security Administrator who shall have responsibility for the general administration of the Social Security System, and who shall have the power to employ and to delegate duties to such employees of the Social Security Administration as deemed feasible and desirable to carry out the provisions of this subtitle.

Source: PL 2-74 § 202.

§ 703. Promulgation of regulations—Hearings—Employees—Annual report.

The Board may adopt, amend, or rescind regulations for the administration of this subtitle pursuant to chapter 1 of title 17 of this code. It may hold hearings or make decisions upon hearings delegated to others for the purpose of determining any question involving any right, benefit, or obligation of any person subject to this subtitle. It may fix the compensation of such employees it deems necessary within the limits of available administrative funds budgeted for its operation, and it may contract for special actuarial and other counseling on a fee basis. It shall bond itself and its employees in such amounts as it shall fix. It shall receive audited accounts of the Social Security System within 90 days of the end of the fiscal year of the system and transmit these accounts to the President and the Congress of the Federated States of Micronesia. The annual accounts and reports shall be made available to the public. It shall submit to the President and the Congress for each fiscal year a report on its operations and the condition of its funds, and subject to section 707 of this chapter, in such report shall make recommendations for amendments to this subtitle as it deems desirable.

Source: PL 2-74 § 203.

Cross-reference: Chapter 1 of title 17 of this code is on FSM Administrative Procedures. The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 704. Maintenance of records—Disclosure of records.

(1) The Administrator shall receive and maintain files and records of all employers and all employees subject to this subtitle. Such records shall not be disclosed to any person except as may be required in the administration of this subtitle or in connection with a hearing conducted in accordance with the provisions of this subtitle.

(2) Notwithstanding the foregoing or any other provision of law, the Administrator, the Secretary of the Department of Finance and Administration, and their designated employees, are authorized to exchange tax information with one another for the purpose of cross-matching taxpayer returns and records and identifying noncompliance with this title or with other tax statutes. Information received by an agency pursuant to the foregoing sentence shall be subject to the confidentiality rules of that receiving agency. The Administrator and the Secretary of the Department of Finance and Administration shall determine who shall be “designated employees” for the purpose of this section.

Source: PL 2-74 § 204; PL 12-51 § 1.

Editor’s note: Subsection (2) was added by PL 12-51 § 1.

§ 705. Appointment of branch managers.

The Administrator shall have the authority to employ branch managers and delegate such power to such branch managers as may by regulation be prescribed.

Source: PL 2-74 § 205.

§ 706. Audit of records—Power to subpoena—Administration of oaths.

The Board and its authorized representatives shall have the power to audit employer records, issue subpoenas, and administer oaths appropriate to the administration of this subtitle.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

Source: PL 2-74 § 206.

Case annotations: Congress may constitutionally authorize by statute administrative agencies to perform many different investigatory functions, among them the auditing of books and records, the issuance of subpoenas requiring the disclosure of information relevant to the agency's functions, and requiring the sworn testimony of witnesses. *FSM Soc. Sec. Admin. v. Weilbacher*, 7 FSM R. 137, 141-42 (Pon. 1995).

§ 707. Actuaries and actuarial valuations.

The Board shall employ or contract with actuaries or actuarial firms for the purpose of making actuarial valuations of the Federated States of Micronesia Social Security System not less frequently than each three years after the date of commencement of the system. Such reports made to the Board shall be submitted with appropriate recommendations for changes in the system and amendments to this subtitle to the President and to the Congress of the Federated States of Micronesia. An actuarial report prepared by a qualified actuary which analyzes the impact on the system of any proposed amendment which has financial implications must accompany the proposed amendment. In particular, proposals to amend section 603, sections 801 to 807, inclusive, sections 901 and 902 or chapter 10 of this subtitle must be accompanied by an actuarial report.

Source: PL 2-74 § 207, modified.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 708. Review of Board determinations.

Any person aggrieved by a final order of the Board may obtain a review of the order in the Trial Division of the Supreme Court of the Federated States of Micronesia by filing in Court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be served on the Board, by service on its secretary or other designated agent, and thereupon the Board shall certify and file in Court a copy of the record upon which the order was entered. The findings of the Board as to the facts, if supported by competent, material, and substantial evidence, shall be conclusive. If either party applies to the Court for leave to adduce additional material evidence and shows to the satisfaction of the Court that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives, and that such evidence is competent, material, and substantial, the Court may order the additional evidence to be taken by the Board and to be adduced upon the hearing in such manner and upon such conditions as the Court considers proper. The Board may modify its findings and order after receipt of further evidence together with any modified or new findings or order. The judgment of the Court upon the record shall be final, subject to review by the Appellate Division of the Supreme Court upon petition of any aggrieved party, including the Board, within 60 days from judgment.

Source: PL 2-74 § 208.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The statutory provisions on Judicial Procedures are found in title 6 of this code.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

Case annotations: An appeal under 53 F.S.M.C. 708 to the FSM Supreme Court trial division from a Social Security Board final order is on the record except when a person aggrieved by such an order makes a showing that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives. In that event, the party may apply to the court for leave to adduce additional material evidence. When no such showing is made of a reasonable failure to elicit evidence, the question that remains is whether the Board's final order rests on findings of fact that are supported by competent, material, and substantial evidence. If the court so concludes, then the findings of fact are conclusive. The trial court's disposition of the appeal on the record is final, subject to review by the Supreme Court appellate division. *Clarence v. FSM Social Sec. Admin.*, 13 FSM R. 150, 152 (Kos. 2005).

Although, it would have been desirable for the claimant to have undergone vision testing as contemplated by the Board, the question under 53 F.S.M.C. 708 is whether there are now facts of record, supported by competent, material, and substantial evidence, sufficient for the findings of the Board to be deemed conclusive and when on a review of the record, the court finds that there is sufficient evidence in the record to deny the disability claim, it will affirm the Board's final decision in its entirety. *Clarence v. FSM Social Sec. Admin.*, 13 FSM R. 150, 153 (Kos. 2005).

Any person aggrieved by a Social Security Board final order may obtain a review of the order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 78, 79-80 (Kos. 2003).

In an appeal from an administrative agency to the FSM Supreme Court appellate division, Appellate Rule 26(b) would control. That rule precludes the appellate division from enlarging the time for filing a notice of appeal from an administrative agency. Because this provision limits the appellate division's power to enlarge time, it is jurisdictional. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 78, 80 (Kos. 2003).

To read the language that a petitioner shall by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part, to mean that the 60 day time period is absolute, which is to say jurisdictional, would be to read the statute as limiting the trial division's jurisdiction to hear such appeals. Statutes which limit a court's jurisdiction are to be construed narrowly. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 78, 81 (Kos. 2003).

When the court reviews appeals from Social Security decisions, the findings of the Social Security Board as to the facts will be conclusive if supported by competent, material, and substantial evidence. *Alokoa v. FSM Social Sec. Admin.*, 16 FSM R. 271, 276 (Kos. 2009).

On an appeal from an FSM administrative agency, the court, under the Administrative Procedures Act, must hold unlawful and set aside agency actions and decisions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or contrary to constitutional right, power, privilege, or immunity; or without substantial compliance with the procedures required by law. These Administrative Procedures Act provisions apply to all agency action unless Congress by law provides otherwise and it applies to the Social Security Administration appeals because no part of the Social Security Act provides otherwise. *Alokoa v. FSM Social Sec. Admin.*, 16 FSM R. 271, 276 (Kos. 2009).

CHAPTER 8
Coverage and Benefits

SECTIONS

- § 801. Scope of coverage; Verification of employment; Old age benefits.**
- § 802. Surviving spouse benefits.**
- § 803. Dependent’s benefits.**
- § 803A. Disability benefits.**
- § 804. Amount of retirement and disability insurance benefits.**
- § 805. Reemployment after retirement.**
- § 806. Amount of survivor insurance benefits.**
- § 807. Lump sum benefits.**
- § 808. Adjustments to correct for overpayments and underpayments to an individual.**
- § 809. Payment of benefits to foreign citizens outside FSM.**
- § 810. Optional lump sum payment to individuals not fully insured who reach retirement age.**
- § 811. International agreements.**

§ 801. Scope of coverage; Verification of employment; Old age benefits.

(1) All employees, wherever employed by an employer incorporated or doing business in the Federated States of Micronesia, shall be covered unless both the employer and the employee are currently subject to any other recognized Social Security System. The administrator of the Social Security System, or his designees, shall cause at least two unannounced employment site checks to be conducted upon every non-government employee actually engaged in an employer-employee relationship that will allow him to be covered and eligible for benefits under this subtitle. The two employment site checks shall be conducted within a month of each other and both shall be conducted within the first six months of the employee’s first contribution payment to the Social Security System. For the purposes of this subtitle, any elected official in any Government unit or body in the Federated States of Micronesia is deemed to be an employee employed by a Federated States of Micronesia employer. The governmental unit or body to which such person is elected is subject to the provisions in this subtitle relating to the duty and obligations of the Federated States of Micronesia employer.

(2) Every person who:

- (a) is fully insured;
- (b) has attained age 60; and
- (c) has filed a complete application with the Social Security Administrator for old age insurance shall be entitled to an old age insurance benefit subject to the earnings test as defined and applied in this subtitle.

(3) Old age insurance benefit payments shall be paid for each month commencing with the month for which both paragraphs (2)(a) and (2)(b) of this section are satisfied and shall end with the month preceding the month in which the applicant dies.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, retroactive payments shall be limited to the 12 months immediately preceding the month in which the individual entitled to benefits has submitted an application.

(5) In an application for benefits under this section, whether individually or as a dependent, the applicant has the burden to come forward with evidence and to take all steps necessary to file a completed application. The Social Security Administration has the right to deny an application for

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

benefits solely on the basis of non-compliance with the application process, or the failure of the applicant to produce reasonably available documents or information.

Source: PL 2-74 § 301; PL 5-120 § 6; PL 12-76 § 3; PL 14-37 § 3; PL 15-73 § 4.

Case annotation: Social security benefits are not subject to probate, as the Social Security Board, not the court, has initial jurisdiction over applications for social security benefits, whether by a surviving spouse or surviving children. The procedure for such applications is set forth in the Social Security Act. *In re Estate of Manas*, 15 FSM R. 609, 611 (Chk. S. Ct. Tr. 2008).

§ 802. Surviving spouse benefits.

- (1) Every surviving spouse who:
- (a) was married to an individual who died fully insured; and
 - (b) files an application

shall be entitled to a surviving spouse insurance benefit, subject to the earnings test as defined in this subtitle.

(2) Surviving spouse benefit payments shall be paid for each month commencing with the month of death of the fully insured spouse and ending with the month preceding the month in which the surviving spouse dies or remarries.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, retroactive payments shall be limited to the 12 months immediately preceding the month in which the surviving spouse has submitted an application.

Source: PL 2-74 § 302; PL 12-76 § 4.

§ 803. Dependent's benefits.

- (1) Every surviving child who:
- (a) was dependent upon an individual who died fully insured or currently insured; and
 - (b) has filed a complete application with the Social Security Administrator for survivor's insurance;

shall be entitled to a surviving child's insurance benefit, subject to the earnings test as defined in this subtitle.

(2) A surviving child's insurance benefit shall be paid for each month beginning with the month of death of the individual who died fully insured or currently insured and shall end with the month preceding the month which contains the first to occur of the following events:

- (a) attainment of age 22 in the case of a surviving child who is a *bona fide* student; or
- (b) ceasing to be disabled after attainment of age 18 in the case of a surviving child who was disabled before attainment of age 22; or
- (c) attainment of age 18 in the case of any surviving child not described in preceding paragraphs (a) and (b) of this subsection, except that benefits shall be payable during the disability of a surviving child who was disabled before the attainment of age 22 regardless of the child's age; or
- (d) marriage; or
- (e) adoption.

(3) A surviving child shall be deemed to have been dependent upon his parent or adopting parent unless that parent or adopting parent was not living in the same household with or contributing to

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

the support of such child prior to his death. The child's insurance benefit shall be paid to the individual upon whom the child is currently dependent, except such benefit shall be subject to the earnings test as defined in this subtitle.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, retroactive payments shall be limited to the 12 months immediately preceding the month in which the surviving child or the surviving child's guardian has submitted an application.

Source: PL 2-74 § 303; PL 9-56 § 1; PL 12-76 § 5; PL 15-73 § 5.

§ 803A. Disability benefits.

(1) Every person who:

- (a) is both currently and fully insured;
- (b) is disabled and has been disabled for at least three full calendar months; and
- (c) has filed a complete application with the Social Security Administrator for disability insurance shall be entitled to a disability insurance benefit, subject to the earnings test as defined in this subtitle.

(2) Disability insurance benefits shall be paid for each month, beginning with the month of the waiting period and ending with the month preceding the month in which the disabled individual dies or recovers from his disability.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, retroactive payments shall not be made for more than the 24 months immediately preceding the month in which the disabled individual has submitted an application.

(4) For persons disabled on or before January 1, 2010, that person to be eligible must only be fully insured to qualify for disability benefits, if they comply with the rest of this section.

Source: PL 12-76 § 6; PL 15-73 § 6.

§ 804. Amount of retirement and disability insurance benefits.

(1) An insured eligible individual shall be paid a monthly old age benefit for life, except for any month of disqualification as provided by this subtitle, in an amount calculated upon an annual basis as follows:

(a) For benefit payments that begin prior to January 1, 2007; 16.5 percent of the first \$10,000 of cumulative covered earnings, plus three percent of cumulative covered earnings in excess of \$10,000 but not in excess of the next \$30,000, plus two percent of cumulative covered earnings in excess of \$40,000.

(b) For benefit payments that begin on or after January 1, 2007 but before January 1, 2011; 16.5 percent of the first \$10,000 of cumulative covered earnings, plus three percent of cumulative covered earnings in excess of \$10,000 but not in excess of the next \$30,000, plus two percent of cumulative covered earnings in excess of \$40,000 but not in excess of the next \$262,500, plus one percent of cumulative covered earnings in excess of \$302,500.

(c) For benefit payments that begin on or after January 1, 2011:

(i) For individuals who are 65 and over; 16.5% of the first \$10,000 of cumulative covered earnings, plus three percent of cumulative covered earnings in excess of \$10,000 but not in excess of the next \$30,000, plus two percent of the cumulative covered earnings in excess of \$40,000 but not in excess of the next \$262,500, plus one percent of cumulative covered earnings in excess of \$302,500.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(ii) For individuals who turn 60 after January 1, 2011, such individual from ages 60 to 64 will receive 50% of the total of all the described benefits in this subsection, 16.5% of the first \$10,000 of cumulative covered earnings, plus three percent of cumulative covered earnings in excess of \$10,000 but not in excess of the next \$30,000, plus two percent of the cumulative covered earnings in excess of \$40,000 but not in excess of the next \$262,500, plus one percent of cumulative covered earnings in excess of \$302,500. These payments in this subsection only, shall be made without reduction pursuant to the earnings test in section 603(7) of this subtitle.

(iii) For individuals under age 60, benefit payments would be calculated the same as subsection (i) of this subsection.

(d) Earnings for covered employment after commencement of payments for retirement or disability insurance benefits shall be included in benefit calculations upon subsequent application for benefits, but such earnings shall be applicable for benefits for months after the calendar year in which such earnings occurred. For the purpose of this section cumulative covered earnings includes earnings on which contributions have been paid by the individual to the Trust Territory Social Security System.

(e) In the event, benefits have been received under section 804(1)(c)(ii), such benefits shall be automatically adjusted when the individual reaches age 65.

(f) For purposes of interpreting this section “benefit payments begin on” is defined to mean the date, whether retroactive or current when a benefit payment is paid for a specific month. A benefit payment may begin prior to the application date, subject to retroactive payment limitations defined in this Act.

(2) An insured, eligible individual shall be paid a minimum monthly benefit of \$75 if the benefit amount calculated in accordance with subsection (1) of this section is less than \$75 monthly. Effective on January 1, 2011, the minimum monthly benefit shall be \$100. The minimum monthly benefit is calculated per insured worker, not per recipient.

(3) An individual who is currently and fully insured and who has been under a disability for three full calendar months and the onset of disability occurred on or after January 01, 2011, or an individual who was fully insured and the onset of disability occurred prior to this bill becoming law shall be paid a monthly benefit for life or until recovery from the disability, except for any month of disqualification as provided by this subtitle in an amount calculated in accordance with the preceding subsections of this section, and for an individual with an onset of disability on or after January 1, 2011, he or she will receive benefits as if he or she retired at age 65, but with existing quarters of coverage. Further, the amount of the benefit as so determined shall, if the individual is receiving a periodic workmen’s compensation benefit, be reduced each month by the excess of the sum of the workmen’s compensation benefit for that month, and the benefit payable under this Act over 80 percent of one-twelfth of the highest annual covered wages in the period consisting of the year in which the disability occurred and the preceding five years. If a workmen’s compensation benefit was payable in periodic benefits but was commuted to a lump sum, for purposes of this subsection it will be considered that the periodic benefit originally available was paid in each month that it would have been paid if the commutation had not occurred.

Source: PL 2-74 § 304; PL 5-120 § 7; PL 7-118 § 2; PL 9-56 § 2; PL 14-37 § 4; PL 14-86 § 2; PL 15-73 § 7; PL 16-10 § 2.

Editor’s note: Amendments to this section made by PL 7-118 § 2 became effective July 1, 1993 pursuant to PL 7-118 § 3.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

Case annotation: Social Security benefits are not subject to execution, attachment, or garnishment and are not assignable except as provided in the FSM Social Security Act. *Rodriguez v. Bank of the FSM*, 11 FSM R. 367, 377 (App. 2003).

§ 805. Reemployment after retirement.

In the event an individual who is receiving retirement insurance benefits returns to covered employment, the benefit shall be recomputed at the end of the calendar year and paid as provided in this subtitle beginning with the year after the calendar year the earnings were made.

Source: PL 2-74 § 305.

§ 806. Amount of survivor insurance benefits.

(1) The surviving spouse of a fully insured worker eligible in accordance with section 802 of this chapter shall be paid a monthly benefit or disability in an amount equal to 60 percent of the retirement or disability insurance benefit calculated for the deceased spouse at the date of death. For a fully insured worker who dies after January 1, 2011, the benefit will be calculated as if he or she retired at age 65, but with existing quarters of coverage.

(2) Each eligible child of an insured worker shall be entitled to a monthly benefit of 15 percent of the retirement insurance benefit calculated for the deceased parent at the date of death. For a fully insured worker who dies after January 1, 2011, the benefit will be calculated as if he or she retired at age 65, but with existing quarters of coverage.

(3) If the spouse of the deceased insured worker is eligible for retirement or disability benefits based on his or her own employment coverage, and is also eligible for survivors' benefits, the spouse shall receive whatever benefit pays the highest monthly benefit. In addition, the surviving spouse shall be entitled to receive a lump sum equal to four percent of the cumulative covered earnings upon which the lower benefit is based, less the sum of all benefits already received on the basis of those cumulative covered earnings. If the spouse elects to accept the lump sum payment, he or she shall lose credit for all quarters of coverage earned up to the date of application. If that individual returns to work, he or she shall start over again to earn quarters of coverage leading to being currently or fully insured.

(4) The monthly benefit paid to the surviving child(ren) shall be based on the higher of the two benefits that have been earned by the deceased parents if fully insured or currently insured. In addition the surviving child(ren) shall be entitled to receive a lump sum equal to two percent of the other deceased parent's cumulative covered earnings, less the sum of all benefits, if any, received by the deceased parent.

(5) The total survivors' benefit paid to the spouse and children may not exceed the retirement benefit calculated for the decedent as of the date of death except that if the surviving spouse receives benefits based on his or her own employment coverage, that amount plus the survivors' benefits for the children may exceed the amount of the deceased's retirement benefit. In no event shall the amount paid be less than the minimum established by the Social Security Administration, as set out in section 804 of title 53 of this code.

Source: PL 2-74 § 306; PL 5-120 § 8; PL 7-119 § 1, modified; PL 14-37 § 5; PL 15-73 § 8; PL 16-10 § 3.

Editor's note: Amendments to this section made by PL 7-119 § 1 became effective December 11, 1992.

§ 807. Lump sum benefits.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(1) When a worker dies and the benefits paid, including survivor benefit, have been less than four percent of his cumulative covered earnings, the survivors, heirs, or the estate of such individual shall be paid a lump sum benefit, after all rights to survivor benefits have terminated, in an amount equal to four percent of the decedent's cumulative covered earnings, reduced by the amount of any benefits paid to the insured worker and his eligible dependents. For the purpose of this section, cumulative covered earnings includes earnings on which contributions have been paid by the individual to the Trust Territory Social Security System.

(2) In the absence of a will, survivors shall be paid in the following order:

(a) spouse, if living, otherwise children in equal shares or guardian, if such children are minors;

(b) parents in equal shares; or

(c) duly appointed legal representatives of the deceased or, if none, person or persons determined to be entitled thereto under the laws and customs of the last domicile of the deceased person.

(3) Only citizens of the Federated States of Micronesia, Republic of Palau and Republic of the Marshall Islands shall be eligible for benefits under this section.

Source: PL 2-74 § 307; PL 14-37 § 6.

§ 808. Adjustments to correct for overpayments and underpayments to an individual.

(1) Whenever an error has been made with respect to insurance payments to an individual, proper adjustment shall be made, under regulations promulgated by the Board by increasing or decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by increasing or decreasing subsequently paid survivor benefit payments payable with respect to the wages which were the basis of benefits of such deceased individual.

(2) No adjustment shall be made when adjustment or recovery would be against equity and good conscience.

Source: PL 2-74 § 308.

§ 809. Payment of benefits to foreign citizens outside FSM.

Unless modified by a totalization or other international agreement, benefit payments under this Act shall be paid to a beneficiary who is not a citizen or national of the Federated States of Micronesia and does not reside in the Federated States of Micronesia, as follows:

(a) Payments shall be made to citizens and nationals of the Republic of Palau, the Republic of the Marshall Islands, and the United States as if they were citizens or nationals of the Federated States of Micronesia as long as the Social Security Administration of those nations gives citizens and nationals of the Federated States of Micronesia reciprocal treatment.

(b) For applications filed after this bill becomes law, payments shall be made to citizens and nationals of other nations if they are fully insured at the time of application, in a lump sum equal to the total amount contributed to the Social Security Administration by the employee under section 901 of this subtitle while employed in the Federated States of Micronesia as of the date the employee turns age 60 or is no longer employed in the Federated States of Micronesia, or dies prior to age 60. All payments due under this section shall be payable over six months, from the date of death, or the date of turning age 60, and/or the date of

filing an application for such benefits, whichever is later subject to the residency provision in paragraph (d) of this section less any monthly or periodic payments received.

(c) For applications filed prior to the date of this bill becomes law, payments shall be made to citizens and nationals of other nations in a lump sum equal to the total amount contributed to the Social Security Administration by the employee while employed in the Federated States of Micronesia as of the date the employee ceases to be a resident of the Federated States of Micronesia in accordance with paragraph (d) of this section.

(d) For purpose of this section, an individual resides in the Federated States of Micronesia if they are present in the territory of the Federated States of Micronesia for 180 days out of the last 365 days and have ties to the Federated States of Micronesia that indicate residence such as a home, vehicle, bank accounts or personal property.

(e) In determining the benefits and entitlements under this title for an individual who receives a lump sum payment in accordance with paragraphs (b), (c) or (d) of this section and who subsequently returns to the Federated States of Micronesia to undertake further covered employment, no covered quarters, employee contributions or employer contributions accrued by the individual prior to receiving a lump sum payment shall be counted.

Source: PL 2-74 § 309; PL 14-37 § 7; PL 14-86 § 3; PL 15-73 § 9; PL 16-10 § 4.

§ 810. Optional lump sum payment to individuals not fully insured who reach retirement age.

(1) Any individual who reaches retirement age and who is not fully insured for Social Security benefits may, at his or her own option, elect to have a lump sum payment of four percent of his or her total cumulative covered earnings. If an individual elects to accept the lump sum payment, he or she shall lose credit for all quarters of coverage earned up to that point. If that individual returns to work, he or she shall start over again to earn quarters of coverage leading to being currently or fully insured. Only individuals who have resided in the Federated States of Micronesia for at least one year preceding their applications for these benefits, and who have either resided in the Federated States of Micronesia for a period of time of not less than ten years total, or who were born in the Federated States of Micronesia, are eligible for this optional lump sum payment.

(2) For the purpose of this section, total Social Security contributions include contributions paid by the individual to the Trust Territory Social Security System.

Source: PL 7-120 §§ 1, 3, modified.

Editor's note: PL 7-120 was signed into law by the President on December 11, 1992.

§ 811. International agreements.

(1) *Purpose of agreement.* The President is authorized to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of such foreign country. Such agreements shall be subject to the approval of Congress by resolution.

(2) *Definitions.* For the purposes of this section:

(a) the term "social security system" means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability; and

(b) the term “period of coverage” means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

(3) *Crediting periods of coverage; conditions of payment of benefits.*

(a) Any agreement establishing a totalization arrangement pursuant to this section shall provide:

(i) that in the case of an individual who has at least eight quarters of coverage as defined in section 603(11) of this title and periods of coverage under the social security system of a foreign country which is a party to such agreement, that individual’s periods of coverage under the social security system of that foreign country may be combined with periods of coverage under this title and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;

(ii) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both, and shall further set forth the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

(iii) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which was completed under this title.

(b) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding other provisions of title to the contrary, receive such benefits while he resides in a foreign country which is a party to such agreement.

(c) Any such agreement may contain other provisions which are not inconsistent with the other provisions of this title and which the President deems appropriate to carry out the purposes of this section.

(4) *Regulations.* The Board shall make rules and regulations and establish such procedures as are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

(5) *Reports to Congress.* The Board shall include as part of its annual submission to Congress required by section 703 of this title, a report describing each agreement that was in effect at any time during the previous fiscal year. The report shall state the estimated number of individuals affected by each agreement and the effect of each agreement on the estimated income and expenditures of the programs established by this chapter.

Source: PL 12-76 § 7.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

CHAPTER 9
Contributions

SECTIONS

- § 901. Employee contributions.**
§ 902. Employer contributions.
§ 903. Voluntary contributions.
§ 904. Employee refunds.
§ 905. Reporting—Social security card and number.

§ 901. Employee contributions.

(1) There is hereby imposed on every employee a tax equal to the following percentages of wages received by him with respect to employment subject to this subtitle:

- (a) with respect to wages paid from the effective date of this Act through June 30, 1985, the rate shall be two percent;
- (b) with respect to wages paid from July 1, 1985, through June 30, 1990, the rate shall be three percent;
- (c) with respect to wages paid from July 1, 1990, through June 30, 1995, the rate shall be four percent;
- (d) with respect to wages paid from July 1, 1995, through June 30, 2000, the rate shall be five percent;
- (e) with respect to wages paid from July 1, 2000, to October 1, 2010, the rate shall be six percent;
- (f) with respect to wages paid on and after October 1, 2010, to January 1, 2013, the rate shall be seven percent;
- (g) with respect to wages paid on and after January 1, 2013, the rate shall be seven point five (7.5) percent.

Source: PL 2-74 § 401; PL 14-37 § 8; PL 15-73 § 10; PL 16-10 § 5.

Editor's notes: PL 15-73 § 10 ended paragraphs (e), (f) and (g) of subsection (1) in periods. PL 16-10 § 5 did not change this. Paragraphs (e) and (f) has been changed to end with semicolons for format consistency. PL 15-73 § 10 omitted subsection (2) without changing the numbering of subsection (1), this remains unchanged.

§ 902. Employer contributions.

There is hereby imposed on every employer an excise tax, with respect to having an individual in his employment, equal to the following percentages of wages, paid by him with respect to covered employment subject to this subtitle:

- (1) with respect to wages paid from the effective date of this Act through June 30, 1985, the rate shall be two percent;
- (2) with respect to wages paid from July 1, 1985, through June 30, 1990, the rate shall be three percent;
- (3) with respect to wages paid from July 1, 1990, through June 30, 1995, the rate shall be four percent;
- (4) with respect to wages paid from July 1, 1995, through June 30, 2000, the rate shall be five percent;
- (5) with respect to wages paid after June 30, 2000, the rate shall be six percent.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

- (6) with respect to wages paid on and after October 1, 2010, the rate shall be seven percent.
- (7) with respect to wages paid on and after January 1, 2013, the rate shall be seven point five (7.5) percent.

Source: PL 2-74 § 402; PL 14-37 § 9; PL 15-73 § 11; PL 16-10 § 6.

Editor's note: In PL 16-10 § 6, section 902 contained two subsections (1). The numbering of the first paragraph as subsection (1) has been omitted and the numbering of the other subsections remain as designated.

§ 903. Voluntary contributions.

(1) Any self employed person who has less than \$10,000 of annual gross revenue may make voluntary contributions to the Social Security Administration in order to become eligible to receive benefits under this title. The remuneration of such person shall be deemed to be \$1,250 per quarter or \$5,000 per year and such persons must pay both the employee and employer contributions in order to be so eligible.

(2) Any person who is a citizen of Micronesia and is working as an employee outside of the Federated States of Micronesia, Republic of Palau or Republic of the Marshall Islands may make voluntary contributions to the Social Security Administration in order to become eligible to receive benefits. The remuneration of such persons shall be deemed to be minimum of \$1,250 a quarter or \$5,000 a year and such persons must pay both the employee and employer contribution in order to be covered.

Source: PL 14-86 § 6.

§ 904. Employee refunds.

When a covered employee is reported with earnings in excess of the quarterly maximum and taxes on the excess are withheld and paid into the Federated States of Micronesia Social Security Retirement Fund, the excess employee tax during the four quarters ending December 31st of each year shall be refunded to the employee within 90 days of that date; provided, that the excess employee taxes are one dollar or more. No refund, however, shall be granted to the employer or employers of such employee of taxes paid by such employers on account of wages paid by them to the employee.

Source: PL 2-74 § 403; PL 5-120 § 9; renumbered by PL 14-86 § 4.

§ 905. Reporting—Social security card and number.

The Administration shall furnish each employer forms for recordkeeping and reporting of contributions which shall show in addition to other information specified by the Board the employer account number and the employee social security number. Numbers shall be issued by the Administration from a permanent register maintained by it. Each employer shall report quarterly, on the prescribed forms, and pay taxes due thereon to the Administration in accordance with the Board's regulation and subject to interest and penalty for failure so to do. Each employee shall be assigned a social security number and a card bearing this number.

Source: PL 2-74 § 404; PL 5-120 § 10; renumbered by PL 14-86 § 5.

CHAPTER 10
Retirement Fund

SECTIONS

- § 1001. Establishment of Fund.**
- § 1002. Investment of Fund.**
- § 1003. Fund custodian.**
- § 1004. Investment consultant.**
- § 1005. Investment advisor/manager.**
- § 1006. Authorized investments.**

§ 1001. Establishment of Fund.

There shall be established a Federated States of Micronesia Social Security Retirement Fund, hereinafter referred to as the “Fund,” separate and apart from all public monies or funds of the Federated States of Micronesia, which shall be administered by the Social Security Administration exclusively for the purposes of this subtitle.

Source: PL 6-111 § 1 (part), modified.

Editor’s note: Former chapter 10 of title 53 was repealed in its entirety by PL 6-111 § 1 (part).

§ 1002. Investment of Fund.

(1) The Social Security Retirement Fund shall consist of funds or assets transferred from the Trust Territory Social Security Retirement Fund, employee’s contributions, employer’s contributions, penalties and interest collected, gifts, donations, and fund transfers authorized by law, plus interest, dividends and other earnings from the investments of the Fund, less benefit payments and expenses incurred in the operation of the Social Security System, hereinafter referred to as the “System.”

(2) The reserves of the Fund in excess of the requirements for the current operations shall be invested and reinvested by or under the authority of the Board. The Board shall invest its reserves to ensure the greatest return commensurate with sound financial policies.

(3) The Board shall have the full power to manage the investments as in its considered judgment seems most appropriate to the requirements and objectives of the system, including but not limited to the power to hold, sell, purchase, convey, assign, transfer, dispose of, lease, subdivide, or partition any asset held or proceeds thereof; to execute or cause to be executed relevant documents; to enter into protective agreements, execute proxies, or grant consent; and to do all other things necessary or appropriate to its position as an owner or creditor.

(4) All proceeds and income from investments, of whatever nature, shall be credited to the account of the Fund. Transactions in marketable securities shall be carried out at the prevailing market prices.

(5) The Board may commingle securities and monies, subject to the crediting of receipts and earnings and charging of payments to the appropriate accounts established by this act.

(6) No member of the Board and no employee of the Board, nor anyone in the immediate family of such member or employee, shall have any direct or indirect interest in the income, gains or profits of any investments made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment made by the Board. Participation in the Fund under the terms of this act shall not be construed to include interest, pay or emolument within the meaning of this subsection.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(7) No member, employee or agent of the Board, nor any person in the immediate family of such member, employee or agent, shall become an endorser or surety or in any manner an obligator of investments made by the Fund, nor shall any member, employee or agent be held liable for actions taken in good faith in the performance of his duties.

(8) Investments may be held as physical securities in either bearer form, or registered in the name of the Fund or the nominee of the custodian. Non-physical securities may be held on book entry at a Depository Institution selected by the custodian, or one of the 12 U.S. Federal Reserve Banks.

(9) Due bills may be accepted from brokers against payment for securities purchased, pending delivery within a reasonable period of time of certificates representing such investments.

Source: PL 6-111 § 1 (part), modified.

§ 1003. Fund custodian.

(1) The Board shall engage one or more fund custodians to assume responsibility for the physical possession of the Fund assets or evidences of assets. The custodian shall submit such reports, accountings and other information in such form and at such time as requested by the Board. The custodian shall hold all assets for the account of the Fund, and shall act only upon the instructions of the Administrator, as so authorized by the Board.

(2) No Fund custodian shall be engaged unless it:

(a) Is a bank duly chartered to transact business in the Federated States of Micronesia or is a United States Bank or Trust Company regulated by the Federal Reserve Board, a state authority or the federal comptroller of the currency as is appropriate;

(b) Has a net worth in excess of \$10,000,000;

(c) Has the capacity to clear securities transactions through the Depository Trust Company I.D. System; and

(d) Has at least ten years' experience as a custodian of financial assets.

(3) The contract between the Board and the Fund custodian shall be of no specific duration and is voidable at any time by either party after 30 days' notice is given.

(4) The costs of services under this subsection shall be paid out of the Fund.

Source: PL 6-111 § 1 (part), modified.

§ 1004. Investment consultant.

(1) No person, firm or corporation shall be engaged as investment consultant unless:

(a) The person, firm or corporation is actively involved in the performance measurement investment consulting business, and its principals in aggregate either possess prerequisite degrees in finance, accounting or economics or have independent professional certifications;

(b) The person, firm or corporation, or its principals in aggregate, have a minimum of ten full years of experience providing investment consulting services; and

(c) The person, firm or corporation certifies in writing that it provides investment consulting services to clients whose assets total at least \$500,000,000.

(2) The Board shall engage an investment consultant to provide ongoing assistance to the Board in:

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(a) The supervision, retention and termination of the investment advisors/managers, the maintenance and updating of the dynamic investment policy, asset allocation decisions, and any other matters involving the investment of the assets which the Board may desire;

(b) Providing quarterly reports of the performance of the investment advisors/managers which must provide time weighted rates of return for a minimum of five years in each asset category;

(c) Providing comparisons of the Fund's performance with that of the markets as well as comparisons with other investment advisors/managers managing similar types of assets; and

(d) Providing at least four reports annually in person.

(3) The Administrator shall at all times maintain a dialogue with the investment consultant in order to facilitate efficient management.

(4) The contract between the Board and the investment consultant shall be of no specific duration and is voidable at any time by either party after 30 days' notice is given.

(5) All costs incurred for the services provided under this subsection shall be paid out of the Fund.

Source: PL 6-111 § 1 (part), modified.

§ 1005. Investment advisor/manager.

(1) The Board shall engage one or more investment advisors/managers to assume the responsibility and direction for the purchase and sale decisions of all assets or evidences of assets charged to them.

(2) No person, firm or corporation shall be engaged as investment advisor/manager unless:

(a) The person, firm or corporation is a registered investment advisor/manager with the U.S. Securities and Exchange Commission in accordance with the Investment Advisors Act of 1940;

(b) The principal business of the person, firm or corporation is of rendering investment management supervisor services;

(c) The person, firm or corporation has been in business for a minimum of ten full years as an active advisor/manager of security portfolios; and

(d) The person, firm or corporation certifies in writing that the assets under its direct investment supervision are in excess of \$500,000,000.

(3) The Administrator shall at all times maintain a dialogue with the investment advisors/managers in order to facilitate efficient management and timely investment actions.

(4) The contract between the Board and the investment advisors/managers shall be of no specific duration and is voidable at any time by either party after 30 days' notice is given.

(5) All costs incurred for the services provided under this subsection shall be paid out of the Fund.

Source: PL 6-111 § 1 (part), modified.

§ 1006. Authorized investments.

Investments may be made in:

(1) *Government obligations.* Obligations issued or guaranteed as to principal and interest by the National Government and/or the State governments of the Federated States of Micronesia or by the Government of the United States, provided that the principal and interest on each obligation are payable in the currency of the United States.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(2) *Corporate obligations and mortgage backed securities.* Obligations of any public or private entity or corporation created or existing under the laws of the Federated States of Micronesia or of the United States or any state, territory or commonwealth thereof, or obligations of any other government or economic community which are payable in United States dollars, or pass through and other mortgage backed securities, provided that:

- (a) The obligation is of an agency of the United States Government, or
- (b) The obligation is of an agency of the Federated States of Micronesia Government,

or

(c) The obligation is investment grade rated by one of two nationally recognized rating agencies; and

(d) No investment under this heading exceeds ten percent of the market value of the Fund or ten percent of the outstanding value of the issue at the time of purchase.

(e) Preferred and common stocks of any corporation created or existing under the laws of the Federated States of Micronesia or under the laws of the United States or any state, territory or commonwealth thereof, may be purchased provided that:

(i) The purchase of such shares shall be considered reasonable and prudent by the investment advisor at the time of purchase;

(ii) No more than five percent of the market value of the Fund shall be invested in the stock of any one corporation; and

(iv) Not more than 25 percent of the market value of the Fund shall be invested in any one industry group.

(v) Such shares are readily marketable and actively traded on a recognized national or regional stock exchange, physical or electronic.

(4) *Insurance company obligations.* Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in the Federated States of Micronesia or in any state, territory or commonwealth of the United States, provided that the total market value of these investments at no time shall exceed ten percent of the total market value of all investment of the Fund.

Source: PL 6-111 § 1 (part), modified; PL 15-73 § 12.

Editor's note: PL 6-111 § 2 reads:

“Section 2. Severability. If any provision of this act or application thereof to any individual or circumstance is held invalid, the invalidity does not effect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.”

CHAPTER 11
Transitional Provisions

SECTIONS

- § 1101. Appointment of initial Board.**
- § 1102. Agreement between FSM Social Security Board and TT Social Security Board.**
- § 1103. Apportionment of assets of the TT Social Security Retirement Fund.**
- § 1104. Collection and remittance of contributions—Payment of benefits.**
- § 1105. Other administrative functions.**
- § 1106. Administration expenses.**
- § 1107. Physical assets.**
- § 1108. Reciprocal agreements.**
- § 1109. Saving of title 53 of the FSM Code for certain purposes.**
- § 1110. Effective date.**

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

Editor's note: Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

§ 1101. Appointment of initial Board.

(1) Upon the effective date of the Act codified in this subtitle the President shall make nominations for members of the Federated States of Micronesia Social Security Board which shall be subject to confirmation by the Congress. Notwithstanding section 701 of this subtitle the initial Board shall be appointed for the following terms: two members for a period of three years, two members for a period of two years, and one member for a period of one year. At the conclusion of the term of each Board member the vacancy will be filled in accordance with section 701 of this subtitle.

(2) Notwithstanding section 702 of this subtitle and subject to other provisions of this chapter, upon confirmation by the Congress of the initial Board nominations, the Federated States of Micronesia Social Security Board shall enter into an agreement in accordance with section 1102 of this chapter with the Trust Territory Social Security Board providing, *inter alia*, that the Trust Territory Social Security Administration shall, as the agent of the Federated States of Micronesia Social Security Board, undertake the proper and efficient operation of the Social Security System defined by this subtitle during the transitional period insofar as it pertains to persons covered under this subtitle and until such time as the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board agree to implement section 1104 of this chapter and the Federated States of Micronesia Social Security Board exercises its prerogatives under sections 1103(4) and 1105 of this chapter.

Source: PL 2-74 § 601, modified.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 1102. Agreement between FSM Social Security Board and TT Social Security Board.

(1) In order to ensure the continuous efficient operation of the Federated States of Micronesia Social Security System, the Board of the Federated States of Micronesia Social Security

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

System shall enter into an agreement with the Trust Territory Social Security Board providing that the Trust Territory Social Security Board shall undertake the investment and reinvestment of funds accruing to the Federated States of Micronesia Social Security System, and that the Trust Territory Social Security Administration shall undertake:

- (a) the administration of the Federated States of Micronesia Social Security System, including, but not limited to:
 - (i) collection of contributions,
 - (ii) payment of benefits,
 - (iii) maintenance of individual records,
 - (iv) registration of employers and employees,
 - (v) enforcement of compliance,
 - (vi) adjudication of claims,
 - (vii) review of eligibility of claims in payment,
 - (viii) maintenance of separate accounts and preparation of financial statement,
- and
- (ix) preparation of budget;
- (b) the provision of technical advice;
- (c) the training of staff recruited by the Federated States of Micronesia Social Security Board;
- (d) assistance in the establishment of an automatic data processing facility for the Federated States of Micronesia Social Security Administration; and
- (e) other functions as may from time to time be required by mutual agreement between the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board.

(2) The term of the agreement shall be decided by the Board of the Federated States of Micronesia Social Security System and the Board of the Trust Territory Social Security System, taking into account the nature and complexity of the functions which are to be performed and the period of training which is required so that these functions may be properly performed by the staff of the Federated States of Micronesia Social Security Board. By mutual agreement of the Board of the Federated States of Micronesia Social Security System and the Trust Territory Social Security Board, the term of the agreement may be extended or the provisions of the agreement modified.

(3) The agreement shall provide that the cost of administration of the Federated States of Micronesia Social Security System by the Trust Territory Social Security Administration shall be paid from the income of the Federated States of Micronesia Social Security System. This cost shall be estimated from the share of the budgeted cost of administration for the Trust Territory Social Security System which is allocable to the Federated States of Micronesia Social Security System. The cost of remuneration, travel, per diem and other expenditures on account of staff recruited by the Federated States of Micronesia Social Security Board shall be paid from the income of the Federated States of Micronesia Social Security System.

Source: PL 2-74 § 602.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

Editor's note: Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

§ 1103. Apportionment of assets of the TT Social Security Retirement Fund.

(1) As of the end of the first calendar quarter following the effective date of the act codified in this subtitle, the portion of the Trust Territory Social Security Retirement Fund and accrued items allocable to the Federated States of Micronesia Social Security System shall be determined.

(2) This determination shall be made by an actuary in accordance with generally accepted actuarial principles, and it shall be done in such a manner so as to ensure the equitable treatment of employees and beneficiaries of the Federated States of Micronesia Social Security System, other successor social security systems to the Trust Territory Social Security System, and the Trust Territory Social Security System. The allocation shall be based on the contributions of employees and persons in charge of retirement and disability insurance benefits.

(3) The actuary shall be appointed by the Trust Territory Social Security Board with the concurrence of the Federated States of Micronesia Social Security Board and the cost of the actuarial variation shall be paid by the Trust Territory Social Security System and allocated on a pro rata basis among the successor systems to the Trust Territory Social Security System.

(4) The portion of the invested assets of the Trust Territory Social Security System which is allocated to the Federated States of Micronesia Social Security System shall continue to be invested in a pool with the funds of the Trust Territory Social Security System and other successor social security systems until such time following the termination of the agreement described in section 1102 of this chapter that the Federated States of Micronesia Social Security Board as trustees on behalf of covered employees and beneficiaries deems it prudent and advisable and in the best interests of persons insured under the Federated States of Micronesia Social Security System to modify the investment policy which has been followed by the Trust Territory Social Security Board. Until this time, separate accounts of each national system's proportionate share of the total invested assets shall be maintained.

(5) At such time or times following the termination of the agreement described in section 1102 of this chapter as the Federated States of Micronesia Social Security Board wishes to realize all or a portion of its invested assets, the Board shall negotiate arrangements with the investment management firm as to how, in what form, and at what times the assets are to be realized and these arrangements shall be equitable to members of the Federated States of Micronesia Social Security System and other social security systems then participating in the pool.

(6) Notwithstanding subsection (5) of this section, a firm managing the pooled investments of the Federated States of Micronesia Social Security System, or other successor systems to the Trust Territory Social Security System, and of the Trust Territory Social Security System, shall be entitled to a period of six months following written notification of the intention of the Federated States of Micronesia Social Security Board to realize all or a portion of its invested assets before these assets or the cash equivalent of these assets must be delivered over to the Board.

Source: PL 2-74 § 603.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

Editor's note: Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

§ 1104. Collection and remittance of contributions—Payment of benefits.

As of the end of a calendar quarter to be determined by agreement between the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board, following the termination of the agreement described in section 1102 of this chapter, contributions shall be paid directly to and benefits paid directly by the Federated States of Micronesia Social Security Administration. Until such time as this occurs, the Trust Territory Social Security System shall maintain a separate account and collect contributions, pay benefits, and invest the excess of contribution income over benefit payments and administrative expenses as an agent of the Federated States of Micronesia Social Security Board.

Source: PL 2-74 § 604, modified.

§ 1105. Other administrative functions.

Following the implementation of section 1104 of this chapter, and until such time as the Federated States of Micronesia Social Security Board determines that in addition to those functions described in section 1104 of this chapter, its Social Security Administration can effectively and efficiently assume all administrative functions associated with the operation of the Social Security System, including settlement and review of claims, enforcement of compliance, registration of employers and insured persons, and maintenance of individual records, the administration of the Trust Territory Social Security System shall continue to perform these functions as an agent of the Federated States of Micronesia Social Security Board.

Source: PL 2-74 § 605.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

Editor's note: Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

§ 1106. Administration expenses.

During the period the Administration of the Trust Territory Social Security System performs the functions described in sections 1104 and 1105 of this chapter as an agent of the Federated States of Micronesia Social Security Board, it shall be paid an administration fee which will be established by agreement between the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board.

Source: PL 2-74 § 606.

§ 1107. Physical assets.

(1) As of the effective date of the act codified in this subtitle, ownership of the physical assets including property of the Trust Territory Social Security System in the Federated States of Micronesia shall be transferred to the Federated States of Micronesia Social Security Board. While the Trust Territory Social Security Administration is performing administrative operations as agents of the Federated States of Micronesia Social Security System in accordance with sections 1103, 1104, and 1105 of this chapter, it shall have the right of access to and use of these physical assets in order to properly carry out its administration of the Federated States of Micronesia Social Security System.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

(2) At such time as the Trust Territory Social Security Administration ceases to have responsibility for any employees and beneficiaries under the Trust Territory Social Security System or any successor systems, and its affairs are wound up, the movable property of the Trust Territory Social Security Administration shall be distributed among the successor systems in the same proportions as the assets are apportioned under section 1103 of this chapter.

Source: PL 2-74 § 607.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

Editor's note: Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

§ 1108. Reciprocal agreements.

In view of the considerable intercountry migration among those countries whose nationals were or are members of the Trust Territory Social Security System, the Federated States of Micronesia Social Security Board may endeavor to negotiate reciprocal agreements for social security coverage with the other successor systems to the Trust Territory Social Security System.

Source: PL 2-74 § 608.

§ 1109. Saving of title 53 of the FSM Code for certain purposes.

(1) The provisions of this section apply notwithstanding the repeal of title 53 of this code, the “Trust Territory Social Security Act,” by sections of this subtitle, but subject to any other provisions of this subtitle.

(2) The Trust Territory Social Security Board continues in existence, and the provisions of title 53 of this code relating to the Board continue in effect, so long as it is necessary:

- (a) for the performance of the functions of the Board under this subtitle and any corresponding laws of the Republic of the Marshall Islands and the Republic of Palau; and
- (b) thereafter for the purposes of the winding up of its affairs.

(3) Upon the certification by the Federated States of Micronesia Social Security Board, of the completion of the winding up of the affairs of the Trust Territory Social Security Board, the Trust Territory Social Security Board is dissolved.

(4) The provisions of title 53 of this code applying to or in relation to prior service credits and prior service benefits continue in effect.

Source: PL 2-74 § 609.

Errata: The word “continues in effect” in subsection (2) has been changed to “continue in effect” for grammatical consistency.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

Editor's note: Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

TITLE 53 – SOCIAL SECURITY AND PRIOR SERVICE BENEFITS

§ 1110. Effective date.

The Act codified in this subtitle shall become law upon its approval by the President of the Federated States of Micronesia or upon its becoming law without such approval, and the effective date of the Act codified in this subtitle shall be:

- (1) the date on which it becomes effective in accordance with Secretarial Order No. 3039; or
- (2) the date on which Secretarial Order No. 3039, section 7, ceases to prevent its becoming effective, whichever is the earlier date.

Source: PL 2-74 § 701.

Cross-reference: The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

Editor's note: Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.